

ARDS AND NORTH DOWN BOROUGH COUNCIL

30th November 2022

Dear Sir/Madam

You are hereby invited to attend a hybrid Meeting (in person and via Zoom) of the Planning Committee of Ards and North Down Borough Council in the Council Chamber, 2 Church Street, Newtownards, on **Tuesday 06 December commencing at 7.00pm.**

Yours faithfully

Stephen Reid
Chief Executive
Ards and North Down Borough Council

AGENDA

1. Apologies
2. Declarations of Interest
3. Matters arising from minutes of Planning Committee 01 November 2022
4. Planning Applications

LA06/2022/0346/O	Infill site for 2 No. dwellings with domestic garages Between 32 and 34 Castle Espie Road, Comber
LA06/2021/0817/F	Residential development of 58 No. dwellings Lands adjacent to and West of Ardara Grove and Ardara Elms to the rear and West of Nos 8 and 9 Swallow Close and South of Nos. 24 to 38 (evens) Heathermount Court and Nos. 20 to 22 Dalton Glen, Comber
LA06/2019/1028/O	Dwelling with associated landscaping and parking Adjacent to 7 Seapark Terrace, Holywood
LA06/2022/0855/F	Electric Vehicle Charging Hub & Canopies Maxol Service Station, 69 Belfast Road, Holywood
LA06/2022/1000/F	Practice nets with security fencing (max height 4.5m) Lands immediately adjacent and SE of the Bowling Green, Seapark Pavillion, Holywood

5. Update on Planning Appeals (report attached)

6. Update on Tree Preservation Orders (report attached)
7. Response to Consultation on Commencement and Implementation of the Reservoirs Act (NI) 2015 (report attached)
8. DFI Consultation on Validation Checklists (report attached)
9. DFI Consultation on Permitted Development Rights (report attached)
10. Quarter 2 Performance Report (report attached)
11. Proposed amendment to Planning Enforcement Strategy (report attached)
12. Resolution by Fermanagh & Omagh District Council re ROMPs (report attached)
13. Correspondence from Northern Ireland Housing Council for noting

In Confidence

14. Update on Planning Enforcement Matters (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, 1st November 2022 at 7.00 pm via Zoom.

PRESENT:

In the Chair: Alderman Gibson

Aldermen: Keery
McIlveen

Councillors:	Adair (9.08pm)	McRandal
	Brooks	Moore
	Cathcart	P Smith
	McAlpine	Thompson
	McClellan	Walker
	McKee	

Officers: Director of Regeneration, Development and Planning (S McCullough), Head of Planning (A McCullough), Principal Planning and Technical Officer (L Maginn), Senior Professional and Technical Officer (Clare Rodgers) and Democratic Services Officers (M McElveen and S McCrea)

1. APOLOGIES

An apology was received from Alderman McIlveen for lateness due to the recent passing of a family member and an apology was received from Councillor McRandal for lateness.

2. DECLARATIONS OF INTEREST

Councillor McRandal:

Item 4.1: LA06/2018/1198/F – Replacement of facilities and car park Sullivan Upper School, Belfast Road, Holywood

Item 4.2: LA06/2018/1196F – Floodlighting proposal for new artificial pitch and additional planting to perimeter of pitch – Sullivan Upper School, Belfast Road, Holywood

NOTED.

3. MATTERS ARISING FROM MINUTES OF PLANNING COMMITTEE MEETING HELD ON 4 OCTOBER 2022

PREVIOUSLY CIRCULATED:- Minutes of the meeting held on 4 October 2022.

RECOMMENDED that the minutes be noted.

AGREED, on the proposal of Councillor Walker, seconded by Councillor P Smith, that the minutes be noted.

4. PLANNING APPLICATIONS

4.1 LA06/2018/1198/F – Replacement of facilities and car park – Sullivan Upper School, Belfast Road, Holywood (Appendix I)

PREVIOUSLY CIRCULATED: Report outlining the planning application.

DEA: Holywood & Clandeboye

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

Proposal: Replacement of Facilities and Car park at Sullivan Upper School

Site Location: Sullivan Upper School, Belfast Road, Holywood

Recommendation: Approval

The Head of Planning advised that this item was before Members this evening as the Council had received objections from six or more addresses which were contrary to our recommendation to approve.

Planning permission was granted in 2015 for 'Replacement of sports changing rooms and addition of gymnasium and dance-studio on site of existing pavilion. In addition, a full size artificial grass hockey pitch, associated facilities and replacement carparking of existing car park'.

Those facilities had since been constructed and were fully operational within the established curtilage of Sullivan Upper school. It was important to note that that approval replaced a former pitch with a new, higher specification pitch in exactly the same location. The hockey pitch was located to the west of the school buildings parallel to the Belfast Road, and immediately to the right of the entrance to the school.

This proposal before Members this evening sought non-compliance with a condition, and variation of another condition, as attached to that previous decision. At the time of consideration by what was then the Department of the previous proposal, there were objections raised concerning the use of the facility by the community, and as a consequence the school reluctantly withdrew the use by community from the proposed scheme.

This proposal essentially comprised of two separate elements as follows:

Non-compliance with Condition 3 which reads as follows:

"Sports facilities and hockey pitch hereby approved shall be solely for use of Sullivan Upper School and shall not be used at any time by any other organisation or any

event or purpose other than those associated with operation and function of the school.

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

That was - seeking the use of the artificial pitch and pavilion by the community. Then variation of Condition 4 of that approval, which specified the permitted hours of operation of the development as approved, proposing new increased permitted hours of operation of the artificial grass hockey pitch.

With regard to the difference of approved hours and those sought by the variation, that being starting one hour earlier and finishing two hours later on weekdays (total increase of 3 hours), starting 30 minutes earlier on Saturdays (total increase of half an hour), and provision to use for five hours between noon and 5pm on Sundays. Whilst these excellent sporting facilities had greatly improved, the sporting and recreational facilities available to pupils, the present conditions attached to the 2015 approval essentially prohibit the local community, including youth groups, sports clubs, individuals etc. from taking advantage of the facilities.

Members were asked to note that community use of school facilities was actively promoted by the Department of Education and that it had a number of programmes and policies aimed at ensuring schools were active within their local communities.

Sullivan Upper School had always been part of the local community, and importantly it was to be noted that various facilities were already made available for use by local clubs, community groups, individuals etc. In this respect it should be noted that none of the other school facilities, including the outdoor grass pitches, tennis courts, indoor swimming pool or various rooms and halls are precluded from community use or restricted in their periods of operation.

Community use of the new facilities (artificial grass hockey pitch with floodlighting, replacement sports pavilion with changing rooms, dance studio and gymnasium) was to be provided as part of an approved project under the School Enhancement Programme and had been a focus of the original business case to the Department of Education: the project was consistent with Article 140 of the Education Reform (NI) Order 1989, which enabled schools to make provision for wider community use of their premises when not otherwise required for education purposes and Area Based Planning Policy. It was also consistent with the Regional Strategy 2035 whereby through the maintenance of a well-developed network of schools and colleges, that in turn would have helped to sustain and strengthen local communities, including rural communities. Regional Guidance also highlighted how integrated services or facilities could strengthen community cohesion.

Sullivan wished to ensure that its newest facilities could be made available for use by the local community, especially as significant public money had been made available by Department of Education to help deliver these high-quality recreational facilities. It was evident that there had been a demand for these facilities by the community.

Because of Planning restrictions at the time of writing, the school had to turn down requests for usage from, for example, local and national hockey teams; local young peoples' football clubs; Irish dancing club; local Pilates/yoga classes; and a stage and drama school.

It should be appreciated for those who were present in the meeting that participation in sport and outdoor recreation facilitates good health and physical development. PPS 8 on Open Space, Sports and Outdoor Recreation also highlighted that it could help foster a strong sense of civic pride and assist cross-community relations.

PPS 8 also set out specific measures, one of which was encouraging the protection and enhancement of open spaces and playing facilities for the long-term benefit of the whole community.

Whilst the primary responsibility for the provision of public open space facilities such as playing fields, parks and children's play areas lay with the Council, through sharing of facilities such as these at Sullivan, the burden could be lifted somewhat off the rate payer by reducing doubling up of such facilities, and free up capital monies to be expended elsewhere for the benefit of the community.

Five letters of support had been received in relation to the proposal, from elected members, MLAs and the occupier of no. 2 Belfast Road, immediately to the north of the hockey pitch. Objections to this proposal had been received from five addresses, which were situated alongside distance to the goals of the subject hockey pitch. Members were asked to note that the threshold for objections triggering referral to Planning Committee was only reached by receipt of a letter from Alex Easton MLA.

The material considerations to be assessed within the objections received related to:

- noise in relation to residential amenity
- assertions that the noise assessment submitted does not represent worse-case scenario
- Light pollution (which is addressed under the next application before Committee)
- Increase in traffic and parking

Those had been addressed in detail within the Case Officer's Report but for clarity, the Head of Planning provided highlights. The Environmental Health Department of the Council had confirmed that no noise complaints had been received to date in relation to the use of the hockey pitch. The application was accompanied by a Noise Impact Assessment and further addendums submitted dealing with matters raised in objections.

Typical noise levels for artificial grass pitches had been taken from 'The Sport England Guidance on the Planning Implications of Artificial Grass Pitch Acoustics 2015'. Environmental Health had assessed the submissions in detail and confirmed that the predicted noise levels from any extended usage were in compliance with the AGP. The EH conducted its own longer term, unattended noise survey in the front and rear gardens of no. 4 Belfast Road and confirmed that the dominant background noise was from vehicular traffic on the Belfast Road. EH was content with the ambient noise monitoring levels provided by the noise consultant.

The Council's own Environmental Health Officer dealing with this application was in attendance at the evening's meeting, as was a Noise consultant, appearing on behalf of the school, who would be able to respond to any noise-related queries posed by Members.

Objectors were concerned that the most significant and intrusive noise of the hockey pitch would have been when a hockey ball hits the backboard of the goal. The AGP noted that such noise was significantly absorbed by the use of padding and that once shock absorbing measures were incorporated, the voice of players would then become the most significant noise source.

Acoustic fencing had been constructed along each end of the pitch at 1.8m height. The fence at the no. 4 Belfast Road end was situated on land at a higher level than the adjacent dwelling and Environmental Health was content that this would be an effective barrier height to that predicted in modelling scenarios. The objector speaking this evening had objected to the length of the acoustic fencing as built. In order to address that concern, revised modelling was carried out and it found that predicted noise levels at head height in the garden of no. 4 Belfast Road and at first floor level facing onto the pitch were within acceptable parameters. The extent of acoustic fence was truncated at that end because of need to allow access to the pitch, but runs the entire length of No 4, as well as the existence of some evergreen vegetation at that end between the pitch and no. 4

Noise in relation to use of other parts of the facility such as the gymnasium/dance studio was not considered to have an unacceptable impact on residential amenity considering any associated noise would be contained within.

Examples were provided of other locations where outdoor hockey pitches in close proximity to residential dwellings existed, identifying that it was not uncommon, and that the majority did not utilise padding for goal backboards. Additionally, within the agent's supporting statement there were a plethora of schools highlighted whereby the hours of use of the outdoor pitches, in proximity to residential properties, was NOT restricted in any way.

In relation to concerns regarding Road safety and parking, Sullivan Upper operated a one-way system within the grounds with double yellow lines and cones preventing parking on the side of the access adjacent to nos. 2 & 4 Belfast Road. No changes had been proposed in respect of access to the site.

DFI Roads was consulted and had no objections. Those present were asked to be cognisant that the proposed additional hours of usage relating to primarily outside of school hours, so parking by teachers/pupils would be drastically reduced. The Spafield car park was also in close proximity, and it had been accepted that it was often occupied during the school day by R-plate drivers, so outside of school hours it was to be expected that off street parking would also be available.

Condition 5 of the Case Officer Report required submission of a Site Management Plan to detail access to parking restrictions and arrangements alongside detail of how visitor parking was to be managed. If and once agreed in writing by the Council,

these measures were required to be carried in perpetuity, and could be subject to enforcement proceedings if the need arose.

it was important to be cognisant that use of the facilities already took place with cars accessing the school and parking accordingly.

With the inclusion of an addendum that had been uploaded the day previous to this evening's meeting, and that the conditions had been amended to ensure that the shock absorbing material, once approved by Council, was affixed appropriately to the back and side boards of the goals, and the perimeter boards, prior to commencement of any extended usage.

Accordingly planning permission subject to conditions as set out in the Addendum was recommended.

Councillor McKee asked for clarification in regard to trees that were not included in the report but was reminded this was a topic for discussion under item 4.2

One of the objectors, Jill Comerton attended the evening's meeting and was brought in to speak of her concerns at 19:23.

Mrs Comerton advised Members that she resided at 4 Belfast Road, adjacent to the hockey pitch where she lived with her family. She advised that the sound of a struck hockey ball was akin to a gunshot; much louder than rugby or football, citing that planning conditions regarded safety of local residents. With proposed operational times and access by external entities, she believed it paved the way for hockey to take place 100% of operational availability. It was stated that Sullivan School had mentioned external entities using the pitches for a maximum of 5% of their operating times and that proposed use had been just 3 nights a week which was significantly different than figures quoted in the application. She believed that the averaging of sound levels would disguise the true sound levels and alleged that one child hitting a hockey ball into a goal would equate to 72db with noise impact by adults likely being worse.

With regard to conditions three and four, she referenced the pitch not being used continuously or for long periods with generally no use at night. The change to a later closing time had only occurred after the school had explained that the pitch could not be used after 18:30. The proposed changes included availability of the pitch during bank holidays and an additional 35 hours per week during term-time. Mrs Comerton asked Members to consider hours of use by both the school and external entities, suggesting the school's hours of use should remain unchanged as the pitches were not used for the entirety of opening hours; something she believed would allow time for interested parties to carry out their training.

In relation to noise assessments, Mrs Comerton alleged that a worst-case-scenario had not been taken into consideration such as all six goals being used in target practice at the same time and the effect of such upon noise levels. She believed the sound reports provided were not fit for purpose and advised that one Mr Shane Carr's concerns had not been addressed. She believed the Sport England Free-field noise level document was not representative of the Sullivan pitch as it referenced a

pitch in use 22% of its opening times for women's hockey and had not taken shooting practice into consideration. As there were six other football and/or rugby pitches in close proximity, she believed this would mean the Sullivan pitch in question would likely only be used for hockey.

She believed Condition three should be varied but not removed as it was vital to protect local residents from noise that would emanate from the pitch. She explained that Condition 4 in changing times would not be required as a 20:00 finish time would accommodate Hollywood Football Club whose times for practice, at the time of writing ranged from 18:00 to 20:00 as well as the Hollywood Women's Hockey club. and advised that those who would attend the pitch in the evenings would inevitably arrive before and leave after closing times which would cause more noise. This, she suggested would be intensified due to a one-way system for traffic that did not work, especially when one of the entryways was closed.

In conclusion, Mrs Comerton explained that the twelve objectors that included herself were the heart of the school community. If the proposed changes were agreed, she believed it would disrupt living conditions for residents and urged Members to consider residents and their plight.

Councillor P Smith asked if Mrs Comerton agreed that the level of noise would be reduced by the introduction of padding around goals. Mrs Comerton advised that the through source material that a sound consultant had tested sound levels with padding on, with one ball and the noise level had been 72db with a child whilst an adult could manage to reach sound levels of between 100 to 119db. These figures, she believed would provide evidence that even with padding, a significant sound level would still exist and if conditions were changed to allow longer opening hours for the pitch, it would have a detrimental impact on those living nearby.

(Mrs Comerton was taken back to the attendee room on Zoom at 19:32, at which time, David Donaldson, William Orbinson KC, Rey Gaston, Peter Moran and Chris Warnock were brought into the meeting. Mr Orbinson was to be speaker for the presentation.)

Mr Orbinson explained to Members that the proposal would allow for Upper Sullivan's facilities to be used and enjoyed by the local community whilst adhering to the visions of both the school and Department of Education. The pitch had been publicly funded and could be used by sporting organisations and community groups in the same way that the school's other facilities were. As such organisations could only operate in the evenings, the application had sought to remove the exclusionary bar that meant the school was the only entity that could use the pitch as well as to extend opening hours in order to facilitate other organisations' ability in using the pitch. Hollywood Ladies Hockey Club, Hollywood Sports Forum and local fitness and drama clubs had expressed interest in their use. Due to child protection issues, the facilities could not be used during normal school hours and both the school and Department of Education required such external organisations to be properly convened, including agreement to Sullivan's terms and conditions of use, as well as having their own public liability insurance in place.

He described Sullivan School's vested interest in the concerns of local residents and how they had engaged the services of Northern Ireland's leading acoustics consultancy FR Mark, represented by Mr Gaston who attended this meeting. Mr Gaston's research and investigation concluded that, the urban surroundings within which the school was located accounted for the lion's share of noise pollution. In addition, Mr Gaston's research had determined that noise produced by way of hockey games would not be of an unacceptable level according to sports specific environments. The assessment had been supported by Environmental Health who, when taking into consideration the representations put forth, agreed that the proposal and conditions before Members should not adversely affect the denizens of nearby dwellings.

Mr Orbinson understood that Members must give the views of their constituents great consideration. He asked that Members also take into consideration, the actions that Sullivan School had already carried out voluntarily and at cost to mitigate any noise factors that may be associated with the pitch.

With regard to car parking, Mr Orbinson advised that as external organisations would not be using facilities at the same time as school staff and pupils, there would be no overlap between the two and as such, adequate space would exist for those who would use the facility outside of school hours. DfI had been consulted and raised no concerns with regard to traffic generation. He advised Members that Mr Hutchinson's house of 2 Belfast Road also abutted the pitch in a much more front-facing orientation with less screening than the residents of 4 Belfast Road. In a letter of support Mr Hutchinson praised the school as a good neighbour and, in a similar fashion, Mr Orbinson hoped Members would agree to the proposal and conditions set forth on the night in order for Sullivan to be themselves, a good neighbour to both those dwelling nearby but also the wider community.

Councillor Walker enquired as to what tests had been used to measure decibel sounds and what effect using all six goals at the same time would have upon sound levels. Mr Gaston explained that he had carried out the tests himself and done so in a location as close as possible to 4 Belfast Road. They had been carried out whilst the senior boys hockey team were practicing as he believed the youthful enthusiasm of the team who were quite mature in stature would provide the best results and indeed, be more intense than during a hockey match. On paper, one could theorize that six goals used at the same time would increase decibel levels if they were placed as close to 4 Belfast Road as possible which would equate to 8db of an increase. However, the goals would not be placed together beside 4 Belfast Road and instead would be spready out at varying distances. Due to this distance factor coupled with the reduced angle of view and screened barrier, sound increases would be negligible.

Councillor P Smith referred to Mrs Comerton's comments on the impact of the pads on noise levels and her lack of optimism in their effectiveness. He was curious as to the difference between padded and non-padded goals. Mr Gaston had tested this as well with the senior boys hockey team at a time when the 1.8 metre high barrier was in place. On both occasions, the average and maximum noise levels had been significantly reduced by at least ten decibels when comparing non-padded and padded goals. Mr Gaston referenced a statement by Mrs Comerton earlier regarding

115-119db, advising that any tests carried out had not managed to reflect such figures. In computer modelling, levels would reach 44db whilst at a first floor level, 48db was the average hourly value.

Councillor McCean regarded 119db as a surprising figure given 120db caused severe hearing damage and was curious as to the figure's provenance. He also wanted to know if the school had sourced the best padding possible to be the best possible neighbour. Finally, in referencing an unfortunate, unrelated incident whereby a pensioner on a mobility scooter died after being unable to continue his journey on a pathway due to parked cars, he wanted to know if the school had taken into consideration and had assurances that parking around the facility would not involve the blocking of pavements. Mr Gaston explained that the padding was a propriety system brought in especially for the project and astroturf had also been used to dress the sides of the boards around the pitch. The manufacturers of the padding did not give estimates in terms of decibel reductions. Mr Gaston's tests had shown the difference the padding made with results being displayed as spikes upon a graph. The ambient traffic noise had registered as 55db in the evenings and so Mr Gaston was unable to explain the origins of the 115-119db figures quoted by Mrs Comerton. He explained that the barriers built around the pitch were made from heavy timber and that sound had to travel around it as opposed to through it. With the inclusion of topography where the pitch and the barrier were at a higher level than 4 Belfast Road, it added to the ability to block sound with a 1.5 metre differential in ground height coupled by the 1.8 metre high fence. With the noise being generated by hockey taking place at ground level, the barrier worked very well and would mean that voices would be the louder sound.

William Orbinson explained that generous parking would be available to users as there would be no overlap between them and school usage of the car park. The proposed condition 5 which was a negative condition had required that prior to extended use, a site-managing plan including parking provision would be agreed by Council. As such, further measures could be addressed as part of that process whilst the Council would effectively have a veto if they found the situation was not satisfactory. David Donaldson added that the changing room facilities were adjacent to the school and that those who would use the pitch would be parking near them as opposed to beside the pitch.

Councillor McAlpine understood the padding had been applied to permanent goal mouths and wished to ensure the same would apply to mobile goals. David Donaldson advised that the school had purchased three sets of padding for all six goals and that at the time of writing, it only applied to permanent goals as community use had not begun yet. However, padding was purchased for all the goals including mobile versions and planning permission required it to be fitted before being used. Councillor McAlpine asked if students and community users would respect neighbours to the schools and how such might be communicated in terms of noise generation. David Donaldson explained that the community use would be curtailed to properly convened clubs or organisations and would be subject to terms and conditions agreed to by the school. In these terms and conditions, it would allow for expectations to be laid before those using the premises with an ultimate sanction for those not acting in accord.

Councillor McKee asked the pitch benefited from natural screening by trees in terms of sound travel to houses. Mr Gaston advised that trees and vegetation would make little difference to the noise reduction but distance between goals and adjacent gardens, reduced angles of view and any screening by long barriers or walls would be the biggest factors. He did point out however that an element of psychology exists whereby not seeing the source of noise can make those living nearby busy roads believe the volume to be lower.

Councillor McClean proposed, seconded by Councillor P Smith that the recommendation be adopted, and that planning permission be granted, subject to outlined conditions.

Councillor McClean was reassured by explanations provided by those speaking at the meeting and believed the school had gone above and beyond with care and scientific research, as well as the safety net of the Council having a veto. Councillor P Smith shared the same views and understood the expressed concerns of residents though believed the evidence that had been supplied at the meeting from different sources had been robust.

Councillor Walker appreciated those that had spoken at the meeting were qualified but had concerns over the increased hours each night plus the additional opening hours over bank holidays and presumably school holidays. He asked if there was any value in having a consultation with neighbours to see how the opening hours had affected their lives. The Head of Planning understood his concerns but advised that under protocol for operational planning committee, the application could be approved with conditions, amended or refused until additional conditions were set. The pitch had been primarily created for hockey but the school was already open to using it for other purposes. It was not being looked at as additional hours representing 365 days. The environmental Health department had assessed the issue since 2018 with monitoring which is why it had taken so long to reach the planning committee.

The Senior Environmental Health Officer explained that Environmental Health had carried out their own monitoring with time spent to the front and back of 4 Belfast Road. They had been content with Mr Gaston's background ambient levels statement of 50db which meant the rear garden was already subject to equal or higher sound levels due to surrounding noise levels such as traffic.

Councillor Walker asked if an agreement took place tonight, could the decision be revised if issues were to present themselves in the future. The Head of Planning advised that a statutory nuisance with regard to noise would require complaints to be raised, and from that monitoring would be carried out to ascertain issues. However, the conditions did not set out a maximum decibel value. The Senior Environmental Health Officer explained that any complaints could be addressed and investigated similarly to other noise complaints.

As Councillor Walker did not support the recommendation, a vote was called, with 8 in FAVOUR, 2 AGAINST, 2 ABSTAINING and 1 ABSENT. The vote was carried. The results of the vote can be found below.

PC.01.11.2022PM

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FOR (8) Alderman	AGAINST (2) Alderman Keery	ABSTAIN (2) Aldermen Gibson McIlveen	ABSENT (1) Alderman
Councillors Brooks Cathcart McAlpine McClellan Moore P Smith Thompson	Councillor Walker	Councillor	Councillor McRandal

RESOLVED, on the proposal of Councillor McClellan, seconded by Councillor P Smith, that the recommendation be adopted and that planning permission be granted.

4.2 LA06/2018/1196F – Floodlighting proposal for new artificial pitch and additional planting to perimeter of pitch – Sullivan Upper School, Belfast Road, Holywood
(Appendix II)

PREVIOUSLY CIRCULATED: Report outlining the planning application.

DEA: Holywood & Clandeboye

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

Proposal: To add 6 15m floodlighting poles around a new artificial pitch and additional planting to perimeter of pitch.

Site Location: Sullivan Upper School, Belfast Road, Holywood

Recommendation: Approval

The Head of Planning explained to Members that the application followed on from the previous item, and again was before them as the Council had received objections from six or more addresses which were contrary to the recommendation to approve.

In parallel with the approval granted in relation to the previous item back in 2015, approval was granted for the erection of 6no. 15m high floodlighting poles to serve the replacement artificial pitch. In line with the previous restrictions discussed in relation to the previous proposal, use of this floodlighting was restricted to use by the school only, and in line with specific hours of operation.

The proposal essentially comprised of the same two separate elements as follows: Non-compliance with Condition 2 which restricted the use of the approved floodlighting to school use only, and Condition 3 which imposed restrictions on the hours of operation. The difference between the approved hours and those sought by the variation consisted of starting one hour earlier and finishing two hours later on weekdays (total increase of 3 hours), starting 30 minutes earlier on Saturdays (total

increase of half an hour), and provision to use the floodlighting for five hours between noon and 5pm on Sundays.

Whilst those excellent sporting facilities had greatly improved the sporting and recreational facilities available to pupils, the present conditions attached to the 2015 approval essentially prohibited the local community, including youth groups, sports clubs, individuals etc. from taking advantage of the facilities.

Sports clubs interested in using the pitch tended to operate in the evenings and would have required floodlighting beyond the restriction of 8pm, given the winter nature of the sport. There was a plethora of other examples whereby schools and sports facilities utilised floodlighting beyond 8pm, such as CIYMS, Strathearn School, and Bangor Grammar.

Policy OS 7 of PPS 8 stated that floodlighting of recreational facilities would be permitted where there was no unacceptable impact upon the amenities of people living nearby; there was no adverse impact on visual amenity or character; and public safety would not be prejudiced.

The J&A further highlighted that floodlighting could extend the hours of operation of such facilities, thereby creating greater flexibility and potential for enhanced use by more people, both as participants or spectators. Care would have to be taken, however as to ensure that such development would not cause unacceptable harm to amenity or prejudice public safety.

Representations received included 5 letters of support, Objections from 6 addresses, a proforma letter from 3 apartments, plus an MLA. The issues raised concern primarily to Light pollution; concerns relating to Increase in traffic and parking, and noise impact were addressed under the previous application.

The previous approval specified that the floodlighting was to be hooded and to operate in accordance with specified lux levels. There were not proposed changes to those lux levels as they operated at the time of writing.

The school also received approval under W/2007/0566/F for a synthetic pitch with 15m high floodlighting columns (the same height as those to the front of the school) to the rear of the school building. It was not known if the school implemented this approval, but of interest was that the use of the pitch and those floodlights was not restricted to school use only, and the hours of operation for the floodlighting was restricted to 8.00am to 11.00pm Monday to Friday and from 8.00am to 6.00pm on weekends, with no restriction on public/bank holidays. The floodlighting columns were positioned in close proximity to dwellings on Demesne Road and Wood End.

The extension to the hours of operation of the floodlighting would be apparent from September to April for the two hour extension in the weekday evenings, and approximately from December to February for the additional hours at the weekend, so limited to winter months. That extension of usage had been considered in the context of that urban location with street lighting along Abbey Ring and along the main Belfast Road during hours of darkness 365 days a year. The lights were fitted with hooding and to be conditioned to be turned off when the pitch was not in use.

Environmental Health had undertaken light monitoring from inside no. 4 Belfast Road and based on measurement results and professional experience, considered that the present floodlighting did not constitute a statutory nuisance.

Should the Committee have considered that the first application was approved, then it remained that the use of floodlighting beyond the previous restrictions as set out should be approved, otherwise the previous determination to approve would have been curtailed significantly.

Objectors assert that the floodlighting would be utilised for an additional 8 months per year, however, floodlighting was only utilised when hockey was to be practised or played – which was by nature limited to a number of months of the year. That floodlighting related specifically to the hockey pitch. Commonly those people who played hockey engaged in other sports during summer months.

There was also comment made regarding the design and size of the floodlights impacting on visual amenity, whereas this lighting had been previously approved and was in situ. That approval was not challenged on a point of law. The fact was that there were residential properties abutting the curtilage of the school, within which various sporting activities took place.

Examples of complaints noted by the objector to the school concerned:

Three dates when floodlights turned on when no one using pitch
Five dates when lights remained on long after students left the pitch
One date when lights on for 1.5 hours when no practice

This was 9 out of 1822 days since November 2017 when lights first became operational – representing half of 1%.

It was considered that such issues could be conditioned effectively with a timer built in to reflect limit on upper time of usage specified. In that respect, if Members were minded to approve this application, delegated powers would be sought to amend the conditions to reflect this requirement to build in some form of timer to adequately ensure turn off of the lights at latest time specified.

The Council's Planning Service opened an enforcement investigation in 2018 in respect of alleged breach of condition 4 of W/2014/0422/F regarding floodlighting being above specified lux levels, supported by a lighting report commissioned by the occupier of 4 Belfast Road. The school in response advised that it had commissioned its own light report which necessitated their lighting supplier travelling from England to attend to adjustments to all six lighting poles. Those adjustments resulted in the school accepting a slight detrimental impact on the pitch playing surface uniformity in order to alleviate its neighbouring residents' concerns.

Further to receipt by Planning of the School's lighting report, Planning sought guidance from Environmental Health in the context of the report in regards the Lux Levels of the Floodlights. In their opinion, the school had complied with condition 4 of planning approval W/2014/0422/F and also noted that the conditions at the site would fall below the threshold that would be considered nuisance in respect of the

Cleaner Neighbourhoods legislation. The case was closed as there was no breach of planning and the School was in compliance with condition 4 of planning approval W/2014/0422/F.

In line with the Case Officer Report and Addendum, the application was recommended for approval subject to the conditions as set out.

(Mrs Comerton was brought back to speak at the meeting at 20:19)

Mrs Comerton advised that she lived nearest the floodlights and that safeguarding the living conditions of local residents would be an acknowledged interest and that the application this evening could allow for hockey to be played 100% of the time or any other sport. The joint effect of conditions two and three meant that the pitch would not be used continuously or for prolonged periods with lights, instead allowing for lights to be used from November to February for approximately 1.5 hours per weekday with lights rarely on after 17:00. The application would seek to drastically extend these times throughout the year and beyond 17:00. She cited that on the 21st June 2022 sunset was at 22:04 and believed this would mean lights would be required even on the longest day of the year. She stated that a school representative had stated the pitch would just be for hockey which opposite to that which the application of the evening sought.

The use of lights throughout the year would be detrimental to local residents with issues such as light-spill and excessive glare. She asked for Members to distinguish between hours for school use and any other community use and consider that school does not change the agreed lighting times given it did not make full use of the pitch during such times. Mrs Comerton stated that the Council had not carried out any kind of lighting assessment or modelling and that the amended lux plan was furnished to Environmental Health in June, not February 2018. She explained that no evidence existed to identify that lighting as it was at the time of writing was within parameters subject to paragraph 21 of planning approval and that Council should be satisfied that such was within parameters before agreeing to any extension of use.

Mrs Comerton advised that a robust lighting assessment including a vertical lighting plan should be required to assess any impact on local residents and that there had been a lack of enquiry and material information to this point in time. Without these elements, she believed that the applicant had failed to prove that the scheme complied with OS7PPS8 which would affect Members' ability to come to a decision without knowledge of proper impact on residents. Quoting OS7PPS8, she explained that it would protect individuals from excessive light and light pollution, however the pitch lights shone into both her home and garden as well as affecting other residents despite adjustment to the lighting in 2018. The EHD stated that harm may be caused even where there was no statutory nuisance. She referred to an incident where a school engineer had said to her that glare would exist as the lights were floodlights and that one Mrs Doherty had reported in 2019 that moderate to high glare was produced by the floodlights. In order to protect residents from additional glare from extended hours, Mrs Comerton believed lumens could be lowered and floodlights fitted with further baffles and dampeners to reduce light spill. Though streetlights existed nearby, Mrs Comerton advised that it did not mean floodlights should be

used at the same time and for longer periods especially considering that street lighting was softer.

She stated that condition 2 should be varied, not removed and a condition added to restrict glare that may emanate from the pitch. With condition 3, it was not a requirement to change lighting times as Holywood football club and Holywood Ladies hockey team could be accommodated until 20:00. She advised that the owner of 2 Belfast Road was frequently away from home with no children residing there and that it was further away from the noise and lighting. Mrs Comerton believed no weight should be given to the previous 2007 approval as it was in a different location and circumstances. Given that each issue should be dealt with upon their own merit, other applications and approvals should bear no sway upon decisions of Members this evening. She explained that trees did not provide screening in months other than summer given their deciduous nature.

(Mrs Comerton was returned to the gallery at 20:31 and David Donaldson, William Orbinson KC, Rey Gaston, Peter Moran and Chris Warnock were brought into the meeting. Mr Orbinson was to be speaker for the presentation.)

Mr Orbinson explained to Members that this application would allow for the school's facilities to be used by the wider community in line with their and the Department for Education's vision. Interested organisations operate during the evening by nature and the lighting arrangements at the time of writing would significantly constrain operating times and availability to such parties and the community. The extended variant of light operations sought were modest and allowed the school to operate as similar establishments and schools did within the Ards & North Down fiefdom that were located beside residential areas; a situation accepted by Environmental Health and Councils. Environmental Health confirms that the proposal would not give way to a statutory nuisance and saw no reason to require the school to reduce light impact. In line OS7 and PPS8, there would be no unacceptable impact in residential amenity, nor upon visual or character representations in the area, or a prejudice to public safety. Residential amenity was protected by a series of measures by the existing lighting levels reducing from the optimal 500 lux to 300 lux averages that the school had agreed to. The lighting had been agreed to be amended to allow for average drop-off levels in lighting to fall from 300 lux averages to between 0.67 to 1.83 at the boundary of 4 Belfast Road, an equivalent to less than 2 candles at the boundary. The directional hoods focused light to the playing surface with minimal spill beyond. This had all been carried out whilst lighting from streetlights and other sporting venues existed. When the hockey pitch would be in use is what mattered as opposed to when it may be theoretically used. The actual use of the extended lighting would be carefully controlled and only in use when the pitch is used and would welcome conditions from Environmental Health atop those already placed by Council officers. The retention of the condition for securing the previously agreed lux levels was also welcomed. Support had been given to Sullivan school by Mr Hutchinson whose house faced the pitch with less screening than 4 Belfast Road. The school hoped Members would endorse the recommendation of the evening and that keep in mind that there would not be significant impact on dwellings surrounding the pitch, including that of 4 Belfast Road.

(As no Members wished to indicate, David Donaldson, William Orbinson KC, Rey Gaston, Peter Moran and Chris Warnock were returned to the gallery at 20:33.)

Councillor McKee asked if trees would assist in protection from light pollution for residences abutting the pitch. The Senior Environmental Health Officer advised that without knowledge on the height of trees or their juxtaposition in relation to lighting, no comment could be made nor the impact made by their presence. Councillor McKee suggested that if trees were removed in the future, it could increase light pollution for such residences. The Head of Planning explained that the trees had been proposed for protection given their visual amenity and not for their assistance in blocking light. If the trees were to die, it would be difficult to replace them like-for-like especially given the time for trees to grow to the same height.

Councillor Walker held the same concerns as the previous item in that the extra hours for the pitch in terms of lighting could be difficult for residents and so did not support the recommendation.

Alderman Keery asked if the age demographic of those dwelling near the pitch had been taken into consideration such as families with young children who could suffer sleep deprivation due to floodlights shining toward houses until potentially 22:00. The Senior Environmental Health Officer advised that light levels were much lower than permitted levels outlined in guidance and that 22:00 was considered as an acceptable cut-off time.

Councillor P Smith proposed, seconded by Councillor McClean that the recommendation be adopted, and approval be given subject to outlined conditions.

A vote was called, with 7 in FAVOUR, 2 AGAINST, 3 ABSTAINING and 1 ABSENT. The vote was carried. The results of the vote can be found below.

FOR (7) Alderman	AGAINST (2) Aldermen	ABSTAIN (2) Aldermen	ABSENT (1) Alderman
	Keery Walker	Gibson McIlveen	
Councillor Brooks Cathcart McAlpine McClean Moore P Smith Thompson	Councillor Walker	Councillor	Councillor McRandal

RESOLVED, on the proposal of Councillor P Smith, seconded by Councillor McClean and in a VOTE with 7 FOR, 2 AGAINST, 2 ABSTAINING and 1 ABSENT, that the recommendation be adopted and that approval be granted subject to outlined conditions.

4.3 LA06/2022/00335/F – Proposed/Part replacement wastewater rising main connecting Stricklands Glen Wastewater Pumping Station (WWPS) to Brompton Road WWPS with associated temporary site access and material storage areas
(Appendix III-IV)

PREVIOUSLY CIRCULATED: Report outlining the planning application.

DEA: Holywood & Clandeboye

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

Proposal: Proposed/part replacement wastewater rising main between Stricklands Glen WWPS to Brompton Road WWPS with associated temp site access and material storage areas.

Site Location: Lands 46m N of no.7 Brompton Road and 80m W of no.29 Stricklands Bay, Bangor, to include Brompton Road and Stricklands Glen pumping stations and the coastal path between.

Recommendation: Approval

The Head of Planning first provided some background as to the nature and necessity for this application.

Members approved the Stricklands Glen Wastewater Pumping Station and the Brompton Road Wastewater Pumping Station at its meeting of July 2017 and November 2018 respectively.

NIW then intended to replace the wastewater rising main between the two pumping stations utilising its Permitted Development rights as a statutory undertaker. However, as the site of the proposal infringed on the ASSI, a Habitats Regulation Assessment under the Conservation (Natural Habitats etc) Regulations (Northern Ireland) 1995.

The HRA proceeded to Appropriate Assessment stage. NIEA was consulted as the Statutory Nature Conservation Body under the Habitats Regulations. Natural Environment Division responded to the initial consultation to state that it was recommended that this project be progressed to a full planning permission, in order to secure the implementation of mitigation through the Appropriate

Assessment. NIEA requested further mitigation to prevent disturbance to wintering bird features of Outer Ards SPA, such as Redshank and stated that should be included within the HRA and Construction Environmental Management Plan. NIEA Water Management Unit also requested additional information to be included in the CEMP to ensure effective mitigation to protect the water environment.

The Shared Environmental Service considered that as NI Water is a competent authority under the Habitats Regulations it could essentially be trusted to carry out the mitigation it proposes through its HRA and CEMP without the need for a planning application/conditions to secure mitigation.

The Planning Service did not agree with that approach and requested a legal opinion on this discrete matter. That opinion stated that there was no basis in statute or caselaw for this proposition by SES of NIW as a competent authority. It also confirmed that the Council had no power to impose non-statutory conditions on the

Class H(a) of the Permitted Development Regulations to secure the mitigation required and concluded an application for planning permission would be necessary to enable conditions to be imposed on the grant of planning permission which would provide the necessary legal mechanism to secure the mitigation in question.

The rising main was described as a pipe that conveyed sewage under pressure – connecting the two WWPS, from where the sewage was then pumped to a Wastewater Treatment Works. The rising main would be installed beneath the existing coastal path to connect the two pumping stations. The existing path was to be excavated to lay the pipework then reinstated as per the existing path with bituminous surface material. The proposal intended to improve and maintain the existing wastewater infrastructure network. The works would essentially reduce the aggregate number of spills from the Combined Sewer Overflow (CSO) discharging to Belfast Lough to meet DAERA standards, thereby improving the coastal water quality. The proposal would therefore result in benefit to the local area and environment. The length of the route is approximately 540m, and during excavation works, the excavated material was to be temporarily stored in the Brompton Road pumping station compound. It had been envisaged that the works would take five weeks to complete, with the coastal path requiring to be closed during this period.

Environmental Health was consulted in relation to the potential impact from the excavation works. It considered there were a number of sensitive receptors located near the proposed works, including dwellings at Downshire Road/Lane and Stricklands Bay. Subsequently there could be noise and vibration disturbance effects mainly caused by breaking through the existing path and associated plant and machinery noise. Environmental Health recommended conditions for any approval forthcoming, including restrictions on hours of construction activity.

Access to the site by construction vehicles would be via Brompton Road and Downshire Road with turning heads at each of the pumping stations. Any increase in traffic as a consequence was expected to be short lived and would not significantly inconvenience traffic flow or prejudice road safety.

Given the sensitive location of the application site in relation to various national, international nature designations, a plethora of documents were submitted and consulted upon, resulting in a number of conditions being recommended.

At the time of publication of the Case Officer Report, only two representations from one address, 19 Downshire Lane, were received. Those raised issue with the quality of the maps as submitted, and queried operation of a proposed vent. The agent submitted a technical note in response to this query detailing how the vent would work, confirming that no noxious odours were likely given the flows through the pipeline and the air vent will be no closer than 20m to the curtilage of any residential property. Air would be expelled up to ten times per hour and no vandalism would be possible as it would be contained underground and accessed via a manhole.

Further to the Case Officer Report being published, NIW's agent contacted the Planning office to advise that as was worded at the time of writing, Condition 4 may cause a problem in respect of gaining access by machinery. Condition 4 was worded as follows:

'All proposed works shall be confined to the existing hardstanding man-made coastal path. Where widening of the path to enable plant equipment access is required, this shall be confined to the landward side of the coastal path, not the marine side. This is to protect the marine environment.'

An addendum was prepared to vary the condition accordingly in relation to that concern, and that prompted submission of an objection querying how Planning could therefore ensure that NIW restricts its operations to that which was only required in absolute and did not include any requirement for restoration.

Marine Team had requested detail in respect of the precise distance that any seaward encroachment would have required; and how much the path the path needed to be widened in the area stated, alongside confirmation that any seaward encroachment would be temporary.

NIW engineers confirmed that any seaward width would be no more than 1m extra as an absolute maximum, and that any extension within that 1m would be kept to a minimum. Any encroachment would be temporary and reinstated once the works were completed.

In that respect, The Head of Planning considered the condition would be better worded as follows:

'The proposed works shall be confined to the existing hardstanding man-made coastal path, as far as practicably possible. Where widening of the path to enable plant equipment access is required, this shall be confined to the landward side of the coastal path as far as practicable, with any encroachment required on the seaward side being a maximum of 1m. The entirety of the path affected shall be restored to the satisfaction of the Council' and seek delegated authority to refine that condition with further input from Marine Team as required.

(Councillor McRandal joined the meeting at 20:43).

Councillor Cathcart agreed that the term, 'where possible,' in regard to widening of pathways was far too vague. He recalled at a previous meeting that the site compound for proposed storage of excavated materials had been mentioned in a recent meeting and wished to ensure that decisions made today were in keeping with any made previously. The Head of Planning confirmed that the Brompton Road site had a decision notice outlining its removal within two months of the newer site being becoming operational. As such, the Head of Planning agreed that a new condition would have to be added to ensure that upon completion, each of the compounds be cleared of any excavation material.

Councillor Cathcart proposed, seconded by Alderman Keery that the recommendation be adopted, and delegated powers be granted to refine the condition regarding pathway expansion and to include an additional condition that excavated materials also be removed from sites upon their demolition.

Councillor McKee agreed that some terms had been vague and wished to ensure land was protected.

RESOLVED, on the proposal of Councillor Cathcart, seconded by Alderman Keery, that the recommendation be adopted, and delegated powers be granted to refine the condition regarding pathway expansion and to include an additional condition that excavated materials also be removed from sites upon their demolition.

RECESS 21:01 resuming 21:10

4.4 LA06/2022/0466F – Tensile canopy structure for public use, Hibernia St, Hollywood
(Appendix V)

PREVIOUSLY CIRCULATED: Report outlining the planning application.

DEA: Hollywood & Clandeboye

Committee Interest: An application made by the Council.

Site Location: Hibernia Street (Pedestrianised Section), Holwood

Recommendation: Approval

The Head of Planning explained that this item was before Members as it was an application submitted by the Council. Funding had made available by the Department for Communities in respect of COVID recovery. The Hollywood Town Advisory Group was consulted in respect of monies available and considered the provision of a canopy structure over this pedestrianised section of Hibernia Street would be appropriate. The cover was also welcomed by Tourism events team in respect of particular events that ran in that location.

Whilst the application related to a canopy proposal, it did not involve the creation of additional retail space. The canopy was to be supported by five columns on each side of the street with a white PVC waterproof fabric attached. The canopy would extend 11m across the section of Hibernia Street closest to High Street. The fabric would have 80% opacity and columns were to comprise a mix of 2.5 and 3m heights. It was not considered that the proposal would harm any features of the proposed Area of Townscape Character.

All works were proposed to be carried out on the pedestrianised area with no alterations to any vehicular access. Whilst DFI Roads returned an eventual response of No Objection, it had requested a number of conditions and informatives, related to the fact that DFI was the landowner, and a number of agreements were required prior to commencement of works, such as relating to street lighting, an indemnity agreement, structural engineer sign off, maintenance agreement and geotechnical agreement. The applicant was aware of those DFI Roads comments. The relevant conditions only had been attached to the recommendation to approve.

Councillor Adair proposed, seconded by Councillor Cathcart that the recommendation be adopted, and the report be noted.

Councillor Adair spoke of Hibernia Street being opened through funding that had been received whilst he was Mayor and welcomed the addition.

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

5. UPDATE ON PLANNING APPEALS

(Appendix VI - VII)

PREVIOUSLY CIRCULATED: - Report from the Head of Planning detailing the following:

New Appeals Lodged

1. The following appeal was lodged on 18 July 2022.

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

Update on Withdrawal of Appeal

2. Last month Members were advised of the withdrawal on 02 September of the following appeal prior to the hearing date of 13 September 2022.

PAC Ref	2021/A0100
Application ref	LA06/2018/0324/O
Appellant	Belfast Central Mission
Subject of Appeal	Development of 24 no. extra care living units and shared communal facilities
Location	Lands at 95 & 97 Donaghadee Road, Millisle

Officers were questioned upon the reason for the withdrawal and at that time were unable to advise; however, upon the recommencement of the PAC's online services, it was apparent that a third party objector submitted an application for award of costs against the withdrawal of the appeal, a copy of the decision thereof being attached.

Paragraph 10 of that decision set out that, in response to the costs claim, the respondent stated that as a charitable organisation, Belfast Central Mission has a finite amount of financial resources that have been negatively impacted by the effects of Covid-19 and the current economic pressures. In light of that, the decision was made to prioritise the organisation's resources on the delivery of its existing services to support those in need. Since the submission of evidence in the appeal, the organisation has undertaken a review of future care delivery. They considered it prudent, and only fair to all parties, to withdraw the appeal until that review was complete.

The Commissioner then at Paragraph 11 highlighted that there was not a significant period of time between the submission of evidence and the planned hearing. Statements of case were requested by 29 July 2022 and rebuttal comments by 17 August 2022. He states that 'Whilst the charitable status of the respondent is acknowledged, the Covid-19 pandemic had been raging for two and a half years at the point of withdrawal and well before the appeal was submitted. It appears unusual that only 11 working days after the final submission of evidence and only 6 working days before the hearing a review of future care delivery should be initiated causing such a significant change in circumstances that would require the respondent to abandon the entire proceedings. Initiation of the review and withdrawal of the appeal were choices made by the respondent and I am not persuaded that they were solely prompted by events outside of its control. It is natural that with only 6 days to go before the hearing, the parties would have been preparing for it and I consider that giving such late notice does constitute unreasonable behaviour.' However, in the absence of any submitted detail, the application for award of costs was denied.

Decisions

3. The following appeal against the Enforcement Notice detailed below was considered and the appeal on Ground (d) failed and the appeal on Ground (a) succeeded and the deemed planning application was granted subject to conditions, resulting in the Enforcement Notice being quashed.

PAC Ref	2020/E0041
Application ref	EN/2020/0224 & LA06/2018/0358/CA
Appellant	Mr Glenn Ford
Subject of Appeal	Appeal against Enforcement Notice dated 21 October 2020 alleging the following: <ol style="list-style-type: none"> i. Change of use of land and domestic stable block to an Animal Rescue Centre; ii. Erection of a detached building being used as dog kennels; iii. Erection of a detached prefabricated building being used as a cattery; iv. Siting of three portacabins, a storage container and portable animal kennels; v. Metal fencing/gates more than 2m in height and vehicle entrance gates adjacent to a roadside more than 1m in height
Location	Lands at 'The Barn Animal Rescue Centre', 4 Ballyblack Road East, Newtownards

Ground (d) of the appeal was brought on the basis that when the Enforcement Notice was served, no enforcement action could be taken. This ground was pursued solely in relation to point i. of the above Notice. The Commissioner did not consider that the evidence provided related to the use of the site as an animal rescue centre, therefore that use was not immune from enforcement action and the appeal on that ground failed.

The deemed planning application was considered in relation to the following:

- The principle of development

- The acceptability of the reuse of an existing building
- The ability of the development to satisfactorily integrate and the impact on rural character
- The impact of the development on the safety and convenience of road users and
- The disposal of waste and effluent from the site

The appeal under Ground (a) deemed application was allowed subject to a number of conditions restricting the number of dogs on site at any one time, restriction on hours when dogs could be kennelled outside any buildings, and various noise and ventilation mitigation measures to be installed.

The costs award decision and appeal decision were appended to this report.

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

RECOMMENDED that Council notes this report.

The Head of Planning summarised the report to Members.

AGREED TO RECOMMEND, on the proposal of Councillor Cathcart, seconded by Councillor McKee, that the recommendation to note be adopted.

EXCLUSION OF PUBLIC/PRESS

AGREED, on the proposal of Councillor Cathcart seconded by Councillor Moore, that the public/press be excluded during the discussion of the undernoted item of confidential business at 21:18.

6. UPDATE ON PLANNING PORTAL REPLACEMENT PROJECT (Appendices VIII – XXI)

*****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)

Alderman Kerry left the meeting at this stage – 10.27pm

7. VERBAL UPDATE ON JUDICIAL REVIEW STATUS

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

*****NOT FOR PUBLICATION*****

PC.01.11.2022PM

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SCHEDULE 6 – Information relating to the financial or business affairs of any particular person (including the Council holding that information)

RE-ADMITTANCE OF PUBLIC AND PRESS

RESOLVED, on the proposal of Councillor Cathcart, seconded by Councillor Walker, that the public/press be re-admitted to the meeting.

TERMINATION OF MEETING

The meeting terminated at 10.33pm.

ITEM 4.1

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' from the delegated list w/c 20 June by Alderman 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> <p>Application being presented at 06 December meeting after being removed from 02 August schedule.</p>
Valid	12/04/2022
Summary	<ul style="list-style-type: none"> • Site located in the countryside within Strangford and Lecale Area of Outstanding Natural Beauty as designated in the Ards and Down Local Area Plan 2015 • Proposal is for outline planning permission therefore it is only the principle of development being considered • Proposal considered at odds with Policy CTY8 of PPS 21 – 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 • All consultees content – DFI stipulating conditions • 4 objections from 4 separate addresses – all material issues raised considered within the Case Officer Report • Contended that the proposal will create a ribbon of development, will create a suburban style build-up of development when viewed with existing buildings, and the visual impact being detrimental to the rural character of the area and the AONB
Recommendation	Refusal
Attachment	Item 4.1a – 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			
Environmental Health		No objection			
Letters of Support	0	Letters of Objection	4 (4 separate addresses)	Petitions	0
Summary of main issues considered:					
<ul style="list-style-type: none"> • Principle of development • Design and Appearance • Impact on privacy or amenity of neighbouring properties • Impact on the character and appearance of the rural area • Biodiversity 					
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 a south-east 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, on the north side of the lane, 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. The site is also located within the Strangford and Lecale Area of Outstanding Natural Beauty (AONB).

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 north-side of the lane. These two buildings face west on to Castle Espie Road. The two buildings, the house and garage known as no 32, also have a frontage to the lane. The curtilage of no.32 extends to the south-east and a mature boundary hedgerow separates it from the site. The proposed site is part of a larger agricultural field. The east boundary of the site is made up of another mature boundary which separates the site from no.34. Within the curtilage of no.34 which faces south, there are three other ancillary buildings. There are two small buildings along the western boundary of the curtilage which are subordinate to no.34. There is

a further building to the north, and in my opinion the building closest to the boundary and lane cannot be considered as part of the substantially built-up frontage because I would consider these to be subordinate to the dwelling and not appearing as buildings in their own merit due to their non-permanent structure and appearance. 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 and therefore has a frontage to the lane. To the east of this is no.38a, its access winds north and its curtilage does not share frontage with the lane.

For the purpose of this policy the definition of a substantial and built-up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear. Along the lane there is no.32 and its garage, the gap site under consideration, then no.34 and in turn no.36 which I consider to be at least three buildings which share a common frontage with the site and lane. Although there are three buildings along the road frontage, I do not consider these to represent a continuously built-up frontage due to the visual break that the site represents.

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.

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.

It is clear the gap is not the width of the site but rather the distance between the buildings. I consider the gap to be between the dwelling at no.32 as it shares frontage with the lane and the dwelling at no.34. The garage at no.32 also has frontage with the lane but the dwelling is the closest building to the gap. The next building, I consider to be the "book-end" of the gap is the dwelling at no.34. There are two buildings along the boundary of no.34, but I would consider these to be subordinate to the dwelling and not appearing as buildings in their own merit due to their non-permanent structure and appearance. Furthermore, the corrugated metal structure would be the only one of the two which would share frontage with the lane.



View from lane of two buildings within the curtilage of no.34

This is consistent with the approach used in appeal decision 2016/A0005. Where in this appeal it considered the infilling of a gap between two dwellings. One of the dwellings had a detached outbuilding. In this appeal it was dismissed as the outbuilding was considered to be subordinate to the property at 36 Belmont Road rather than appearing as a building in its own merit. The Commissioner in this instance states that *"there are only two buildings which have frontage to the Belmont Road and therefore the appeal could not be considered to represent a gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantially built-up frontage"*.



Diagram of gap and how it was measured

The buildings within the frontage are –

1. No.32 Castle Espie Road – dwelling and garage
2. No.34 Castle Espie Road
3. No.36 Castle Espie Road

I calculate the gap in this instance to be approximately 112 metres measured from the south-east gable elevation of 32 Castle Espie Road to the western gable of no.34 Castle Espie Road. A small gap is defined in the sense that it be sufficient only to accommodate up to a maximum of two houses. The frontage width of the proposed site is approximately 74 metres, meaning that each of the 2 proposed infill plots would have a frontage width of approx. 37 metres. This theoretically means that up to 3 dwellings could be situated in the gap of 112m as the average plot width in the immediate area is 36.4m. Therefore, I consider that the gap is not "small" in so far as it would be possible to accommodate more than two houses within the gap whilst maintaining and respecting the existing development pattern.

Furthermore, the guidance provided in the document Building on Tradition advises that 'when a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with 2 new plots'.

The plot widths for the adjacent plots are as follows:

32 Castle Espie Road = 52.5m

34 Castle Espie Road = 31m

36 Castle Espie Road = 25.6m

The average plot width is calculated at - $52.5\text{m} + 31\text{m} + 25.6\text{m} = 109.1\text{m} / 3 = 36.4\text{m}$.

Twice the length of the average plot width is therefore 72.7 metres and the gap between the buildings is measured to be 112 metres, so as per the guidance set out in Building on Tradition, the site is unsuitable for infill with 2 new dwellings as it exceeds the 'twice the length of the average plot width'.

Building on Tradition and Policy CTY 8 require an assessment as to whether the gap represents a visual break and whether the loss of the visual break would result in a material change in the developed appearance of the local area.

The application site consists of part of a larger agricultural field. The site is accessed via a laneway which branches off the Castle Espie Road. The site is elevated from the Castle Espie Road and is visible when travelling south along it. The site provides a visual break from the dwellings along the Castle Espie Road, nos. 30, 30a and 38, and those to the end of the lane, nos.32, 34 & 38. The ribbon of development which the development will potentially create will be seen from both the Castle Espie Road and the laneway. When viewed from the Castle Espie Road, the site provides a natural visual break between the dwellings along Castle Espie Road (right side of photo) and those at the end of the lane (left side of photo1).



View from north of the site along Castle Espie Road (photo1)

When viewed from the laneway the visual break in existing development can also be seen and development upon this site will remove this visual break, which currently has a positive contribution to the character of the area and AONB.



View from halfway up lane towards no.32, into the site and towards no.34

The two properties either side of the site, nos.32 & 34, are not visually linked mainly due to the 112-metre separation gap and also due to the surrounding mature field boundaries, which again highlights the fact that it cannot be described as a small gap. The gap represents a visual break between 2 dwellings which are separated by the field. To develop the site would result in the loss of the visual break between no.32

and no.34 and would result in a loss of rural character and have a detrimental impact on the AONB.

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.

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 1,920sqm, 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 average plot size is calculated at 1572sqm, with a range between 975sqm and 1920sqm. The proposed sites are to be approximately 1,648sqm each. 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 part of and an adjacent field to the north so as to gain access to the Castle Espie Road which runs north to south.

The proposed plots would be in keeping with the range of plots within the immediate area. However, although the plots are comparable, the visual break provided by the site ensures the character of the area is respected. The dwellings in this area are dispersed in pattern and the proposed development would join two separate groups and form a large group of dwellings which would be out of character for the area.

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 (due to the visual break), the site is not small and would be able to accommodate more than a minimum of two dwellings and the proposed site does not respect the existing pattern of development along the lane due to the visual break it represents.

The proposal fails CTY8 fundamentally in that the site could accommodate more than 2 houses. 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 the topography of the land falls away steeply to the northern boundary with views open from the north. It would be my planning judgment that two dwellings on this site would be a prominent feature in the landscape as there would be a sustained view over approximately 800m along the Castle Espie Road on approach from the north. The existing development, sharing frontage with Castle Espie Road, can be seen in photo 3, to the right-hand side of the site (site partially outlined in red). The dwellings would not only extend the existing development in a south-easterly direction but would also break the existing line of the horizon when viewed from the Castle Espie Road. The visual impact of the two dwellings proposed, 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 (photo2)



View from the north along Castle Espie Road (photo3)



Access already constructed as an agricultural access to be used

While the proposed application is for outline permission, the site outlined in red indicates that the dwellings will be accessed via the existing agricultural gate in the photos 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. The dwellings nos. 34, 36 & 38 along the lane way, which are accessed via the laneway, integrate into the countryside due to the low-lying land on which they are located, the mature vegetation around them and the access off the lane. The site on which the two dwellings are proposed is high, open to views from the road and prominent. The access arrangements proposed for the site will raise further awareness of the two dwellings proposed and will draw attention to them. 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. Nor does it comply 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 under this application.

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. Details of the proposed sites have not been shown as this application is for outline permission, but I would estimate that there will be adequate parking space retained within the sites for parking vehicles.

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.

Policy NH 6 of PPS 2 states planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and all the following criteria are met:

- a) the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and
- b) it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape; and
- c) the proposal respects: local architectural styles and patterns; traditional boundary details, by retaining features such as hedges, walls, trees and gates; and local materials, design and colour.

This proposal is for two dwellings in the Strangford and Lecale AONB and if granted permission, it will have a significant impact on the character of the area by eliminating a visual break between existing development. The proposed site is set within a "gap" which is not considered to be small enough to accommodate two dwellings only and development on this site would therefore create a ribbon of development. The site is not considered acceptable in terms of policy CTY8, and any local wildlife and archeology features close to the site have been considered. The design of the dwellings proposed has not been shown within this proposal, but it is my planning judgment that if any development was to take place on this site it would be a prominent feature in the landscape due to the topography of the area. There will be views of the dwellings when travelling along the Castle Espie Road and if approved it will be a prominent feature in the landscape. A design and access statement was submitted with this application and was considered during the assessment. The

visual break provided by the site ensures the character of the area is respected. The dwellings in this area are dispersed in pattern and the proposed development would join two separate groups and form a large group of dwellings which would be out of character for this area within the AONB.

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. Four letters of objection have been received.

Issues raised –

Contrary to PPS21 – CTY8:

- The site does not share frontage with all the dwellings along the lane as no.32 frontage is to the west.
- Impossible to visually link the proposed houses to adjacent dwellings as different in appearance, age and style.
- Proposed plot sizes different to those which exist.
- More than two dwellings could fit in the site

Contrary to PPS21 CTY13 & 14

- Proposal will be unduly prominent.
- It will have a suburban style build-up when viewed with existing and approved buildings.
- Will negatively impact on the visual impact of the area in terms of increasing the density of dwellings in the area.
- The site provides a visual break within an existing cluster and will appear as prominent.
- Proposal will lack established boundaries
- Will not respect the traditional pattern of development
- Create a density out of keeping with the area.

- The access to the site is different to existing and will have a negative impact in terms of rural character.

Contrary to PPS2 NH6

- Negative impact on the AONB in terms of visual impact

I have considered and assessed within my report, all the points raised within the objection letters received.

Additional supporting information was also received from the planning agent after the proposal was deemed to be contrary to policy.

The information received reinforces how the planning agent interprets PPS21 CTY8, CTY13 and CTY14. I have considered all the points raised and the agent's interpretation of the policy.

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 constitute a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage, and represents a visual break and would, if permitted, result in the creation of ribbon development along the Castle Espie Road.
3. 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 fails to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and other planning and environmental requirements along this section of Castle Espie Road.
4. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:

- the proposed buildings will be a prominent feature in the landscape;
 - the proposed buildings will 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.
 - the ancillary works will not integrate with their surroundings.
5. 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.
6. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2 Natural Heritage in that the scale of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality and does not respect the local development pattern.

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 4.2

Ards and North Down Borough Council

Application Ref	LA06/2021/0817/F
Proposal	Residential development of 58 No. dwellings (comprising detached and semi-detached dwellings), garages, landscaping, open space, internal road network, right hand turn lane at Ballygowan Road and all other associated site and access works
Location	Lands adjacent to and West of Ardara Grove and Ardara Elms to the rear and West of Nos 8 and 9 Swallow Close and South of Nos 24 to 38 (evens) Heathermount Court and Nos 20 to 22 Dalton Glen, DEA: Comber
Committee Interest	A development within the Major category of development
Validated	28/06/2021
Summary	<ul style="list-style-type: none"> • Site zoned for housing in the Ards and Down Area 2015 (Ref: CR05) therefore principle of development acceptable • Pre Application Community Consultation carried out as major application - community consultation event held in the local area; Consultation Report submitted as part of the proposal • Site opposite Lotus Homes' successful 'Pirrie' housing development (approved at Committee April 2019) • No objections raised by relevant consultees subject to conditions • Dwellings positioned sufficient distance from existing properties to ensure no unacceptable impact on residential amenity • Representations relate to overdevelopment of Comber, lack of neighbour notification, lack of EIA, lack of efforts re carbon neutral, traffic, water/drainage, ecology, visual impact, land ownership, trees, overlooking, impact on listed buildings and property prices, and construction disturbance. All material planning considerations fully considered in the Case Officer's Report
Recommendation	Approval
Attachment	Item 4.2a – Case Officer Report

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2021/0817/F	DEA: Comber	
Proposal:	Residential development of 58 No. dwellings (comprising detached and semi-detached dwellings), garages, landscaping, open space, internal road network, right hand turn lane at Ballygowan Road and all other associated site and access works.		
Location:	Lands adjacent to and West of Ardara Grove and Ardara Elms to the rear and West of Nos 8 and 9 Swallow Close and South of Nos 24 to 38 (evens) Heathermount Court and Nos 20 to 22 Dalton Glen, Comber		
Applicant:	Lotus Homes UK Ltd.		
Date valid:	28.06.2021	EIA Screening Required:	Yes
Date last advertised:	23.12.2021	Date last neighbour notified:	15.11.2022
Letters of Support: 0	Letters of Objection: 22 from 13 separate addresses	Petitions: 0	
Consultations – synopsis of responses:			
DfI Roads	No objection subject to PSD conditions		
DfI Rivers	No objection		
NI Water	No objection – capacity at WWTW and a downstream engineering solution has been agreed to mitigate the foul sewer capacity issue and allow connection.		
Environmental Health	No objection subject to a condition relating to noise.		
NIEA Natural Environment Division	No concerns		
NIEA Water Management Unit	No objection as there is capacity at WWTW and a solution has been agreed for a sewer connection		
Shared Environmental Service	No likely effect on a designated site subject to condition		
Historic Environment Division – Historic Buildings	Content proposal will have no adverse impact on adjacent listed building		
Historic Environment Division – Historic Monuments	Content subject to archaeological conditions		

Summary of main issues considered:

- Principle of development
- Design and impact on character and appearance of the area
- Impact on residential amenity
- Impact on built heritage
- Access and parking
- Drainage and flooding
- Impact on natural heritage and trees

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

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

1. Site and Surrounding Area

The site is located at lands adjacent to and West of Ardara Grove and Ardara Elms, to the rear and West of Nos 8 and 9 Swallow Close and South of Nos 24 to 38 (evens) Heathermount Court and Nos 20 to 22 Dalton Glen, Comber. The site is currently part of a grass field. The land is undulating with levels generally falling from the north to south. There is no vehicular access to the site.

The northern boundary of the site consists of different rear boundaries of domestic properties in Heathermount Court with some trees within the site. The eastern boundary has a mix of trees, hedging and fencing along the residential properties in Ardara Grove, Ardara Elms and Swallow Close. At the ends of Ardara Grove and Ardara Elms there is post and wire fencing. The western boundary is undefined as it is part of a larger field. The southern boundary has an area of dense trees.

The area is within the settlement limit of Comber as designated in the Ards and Down Area Plan 2015. The area is predominantly residential with a mix of house types and designs. There are two listed buildings to the south of the site at Maxwell Court and Ardara House.

2. Site Location Plan



3. Relevant Planning History

LA06/2021/0298/PAN - Lands adjacent to and West of Ardara Grove and Ardara Elms, to the rear and West of Nos 8 and 9 Swallow Close and South of Nos 24 to 38 (evens) Heathermount Court and Nos 20 to 22 Dalton Glen, Comber - Residential development of c.60 no. dwellings (comprising detached and semi-detached dwellings), garages, landscaping, open space, internal road network, right hand turn lane at Ballygowan Road and all other associated site and access works - Proposal of Application Notice is Acceptable.

Section 27 of the Planning Act (NI) 2011 places a statutory duty on developers to carry out a Pre-application Community Consultation on major development proposals. The threshold for housing sites is sites that are greater than 2 hectares or more than 50 units which applies to this site. (58 dwellings on a 3.94 hectare site). The PAN was submitted to the Council 12 weeks in advance of the submission of this application. (15th March 2021 and application submitted 28th June 2021)

A Statement of Consultation and Community Involvement was submitted as part of this proposal which sets out that the community consultation was advertised in local newspapers, letters and leaflets were distributed to local neighbours to detail how to access the online pre-application community consultation process and comment cards, self-addressed envelopes and details of the point of contact to ask questions or provide feedback were provided. Local businesses and Elected and local representatives were also contacted. Due to ongoing covid procedures a community consultation event was held online and the public were able to submit comments. All responses were acknowledged by the consultation team.

4. Planning Assessment

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

- Ards and Down Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2 - Natural Heritage
- Planning Policy Statement 3 - Access, Movement and Parking
- Planning Policy Statement 7 - Quality Residential Environments
- Addendum to Planning Policy Statement 7 - Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 8 – Open Space, Sport and Outdoor Recreation
- Planning Policy Statement 12 - Housing in Settlements
- Planning Policy Statement 15 – (Revised) Planning and Flood Risk

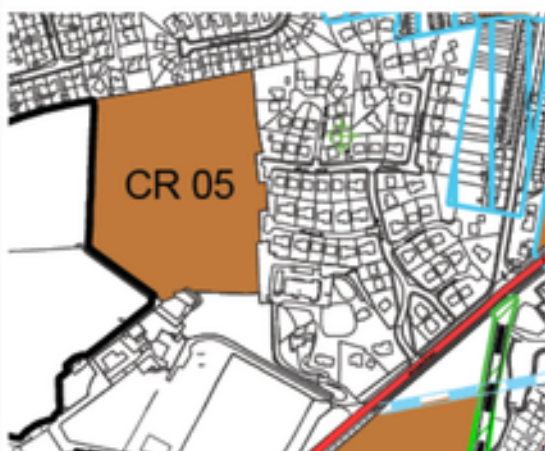
Planning Guidance:

- Creating Places
- DCAN 8: Housing in Existing Urban Areas
- Parking Standards

Principle of Development

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

The Ards and Down Area Plan 2015 sets out the land use proposals that will be used to guide development within the area. The site is within the settlement limit of Comber as designated within the Ards and Down Area Plan 2015 and is zoned for housing (CR 05 - 3.14 Hectares at Land to the west of Ardara Grove).



There are a number of Key Design Considerations relating to CR 05:

- A minimum development density of 20 dwellings per hectare and a maximum gross site density of 25 dwellings per hectare;
- Provision of an access through Ardara Grove housing estate, a right turn facility will also be required at the junction of Ardara Grove housing estate and the A22; and
- Existing trees and vegetation shall be retained and enhanced throughout the site and provision of a landscaped buffer 8-10m in depth shall be provided along the western and southern boundary of the site to help integrate development into the landscape.

The zoning CR 05 totals 3.14 hectares, this gives a potential housing yield on the zoning of between 63 and 79 dwellings based on the stated site densities. The application site appears slightly larger than the zoning as it includes access onto the road and proposes a total of 58 dwellings. The proposed density for the zoned site is 18 dwellings per hectare and therefore, lower than the minimum density detailed in the ADAP. The supporting statement submitted as part of the proposal states that although the proposed density is lower than the Plan, the proposal allows for a spacious layout which responds to the sloping topography of the site, retains existing TPO trees and provides landscape buffers to the site boundaries including adjacent to listed buildings.

The Plan team within the Council Planning Department was consulted and commented that due to the lower density, the proposal is contrary to ADAP Policy SETT 1, HOU 1 and zoning CR 05. However, it is considered that the reasons for the reduced density on this site are suitably justified and the proposal will provide a quality residential environment which complies with the relevant regional planning policies. This will be discussed further in the report.

In terms of the remaining Key Design Considerations, the access is taken via Ardara Grove as specified, and a right turn lane will be included from the A21 Ballygowan Road. Although the KDC refers to the A22, this appears to be an error as there is no possibility that a right turn lane could be included on the A22 as the junction of the Ardara Grove Housing estate is on the A21. I am content that the proposal meets the intention of the KDC and there is no conflict with the Plan.

The landscaping plan shows that existing trees and vegetation will be retained and enhanced and the required 8-10m depth of landscape buffer has been provided along the western and southern boundaries.

The proposal complies with the zoning and all of the Key Design Considerations set out in the plan except for one relating to the min/max density of the site. However, I am attributing determining weight to the factors outlining the reason for the reduced density and consider the reduce density acceptable for this site and area. It is therefore considered that the proposal is in general conformity with the plan and the principle of development is acceptable.

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Regional planning policies of relevance are set out in the SPPS and other retained

policies, specifically PPS 7 – Quality Residential Environments and PPS 3 - Access, Movement and Parking.

Design, Visual Impact and Impact on Character of the Area

Policy QD1 of PPS 7 seeks to achieve residential developments which promote quality and sustainability in their design and layout, and which respect the character, appearance and residential amenity of the local area.

The proposal will not damage the quality of the local area. The site is within the settlement limit of Comber, it is on land that is zoned in the Plan for housing and is located adjacent to a predominantly residential area.

The layout, scale and massing of the proposed dwellings will respect the topography of the site and the character of the area. The site rises from south to north and the layout has been designed to respect this and allow the dwellings to integrate with the existing topography. Landscaped embankments will be provided throughout the site to maintain and respect the levels of the site and the use of some retaining walls will be required. Plans detail that the max. height of any retaining wall will be 1.75m

The dwellings will be two-storey which respects the scale and massing of the area. The proposal will provide a mix of detached and semi-detached dwellings with 3-4 bedrooms to provide choice and variety within the development. The dwellings will be finished in a mix of white and buff render and buff brick with grey roof tiles which although different to the adjacent red brick dwellings will not have an adverse impact on the visual amenity of the area as a variety of finishes is expected within the urban area and within the wider area of Comber there are many examples of different finishes.

All dwellings will front onto the internal road layout and will have incurtilage parking spaces which respects the pattern of development in the area. Garages will also be provided.

Landscaping will be provided within the site to soften the visual impact of the proposal. An 8-10m planted buffer will be added along the northern and western boundary to provide screening and aid integration with the surrounding landscape. Within the site landscaped embankments will be added to soften the changes in levels throughout the site.

The TPO trees within the site will be retained and protected during the construction phase and there is a sufficient separation distance between them and any new development to ensure their protection and maintain the existing character of the area.

The density of the proposed development is not considered as significantly higher than the surrounding residential area. As previously discussed, the zoning in the Plan allows for a greater density on the site (min. 63 dwellings and max. 79 dwellings) and this proposal is for 58 dwellings. It is considered that the density on site will not erode the character of the area as the form, scale, massing and layout of the new development will respect that of adjacent housing and will create a quality residential environment. It is considered that sufficient amenity space, parking, and landscaping will be provided and there will be no unacceptable adverse impacts on the privacy of

residents due to separation distances between existing and proposed dwellings.

The proposal is therefore considered to comply with parts (a) and (g) of Policy QD1 of PPS 7, policy LC1 of the Addendum to PPS 7 and all relevant guidance.

Amenity Space

Sufficient amenity space will be provided within the development. The size of plot for each dwelling is adequate to ensure that sufficient provision is made for private amenity space in rear gardens with the average space standard for the development as a whole providing greater than 70m² amenity space per dwelling as recommended in Creating Places. The private amenity space for the dwellings ranges from approximately 44 sqm to 322 sqm with the average space standard of 102.5 sqm.

In order to comply with Policy OS 2 of PPS 8, as the residential development is for more than 25 units, an area of useable open space has been provided in the middle of the site. The open space has been designed as an integral part of the development. The dwellings adjacent to the open space have been designed to overlook it to provide an attractive outlook and security. The provision of public open space contributes to creating a quality residential environment.

The normal expectation of open space for housing developments over 25 units will be at least 10% of the total site area. An open space layout plan has been provided which details that the actual developable area of the site, excluding the 8-10m landscape buffer, is 6.9 acres and the area of open space is 0.69 acres and therefore will provide the required 10%.

It is therefore considered that the proposal will provide sufficient amenity and open space for future residents and the proposal complies with part (c) of Policy QD1 of PPS 7, Policy OS 2 of PPS 8 and all relevant guidance.

Impact on Residential Amenity

The proposal will have no adverse impact on adjacent dwellings and will cause no significant overlooking or overshadowing. The proposed housing development will be built at the end of Ardara Elms and Ardara Grove. The proposed dwellings on plots 10 and 11 will be built gable to existing dwellings at No. 12 and 9 Ardara Elms. Due to existing levels the proposed dwellings will be built at a higher level by about 1.5/ 2m, however there will be a sufficient separation distance of over 23m between the gables of the existing and proposed dwellings and there are existing boundary treatments and vegetation along the boundaries of No. 12 and 9 Ardara Elms and the boundary of the site will have fencing added. These factors combined will ensure the proposal has no unacceptable adverse impacts on the residential amenity of dwellings in Ardara Elms.

The proposed dwelling on plot 1 will be built gable to the existing dwelling at No. 12 Ardara Grove. There will be a sufficient separation distance of 20m between the gables with existing vegetation between and new fencing and entrance walls will be added along the boundaries of the site to prevent any unacceptable adverse impacts on the residential amenity of No. 12 Ardara Grove.

The proposed dwellings on plots 58 and 57 will be built backing onto the gable of No. 9 Ardara Grove. Although the proposed dwellings are at a higher level, there will be a

sufficient separation distance of over 23m between the rear of the two-storey element of the proposed dwellings and the gable of No. 9 Ardara Grove with existing vegetation and trees retained in between and new 1.8m fencing will be added along the adjoining boundaries. Due to the position of the proposed dwellings, the private rear amenity space of No. 9 will not be overlooked. The proposal will therefore have no unacceptable adverse impacts on the residential amenity of No. 9 Ardara Grove.

The proposed dwelling on plot 56 will back onto existing dwellings at No. 9 and 10 Swallow Close. Although the proposed finished floor level is 4m higher than that of Nos. 9 and 10 Swallow Close, there is a sufficient separation distance of over 30m between the dwellings with trees retained along the adjoining boundaries and a new planted buffer and 1.8m fencing will be added to provide screening and prevent any unacceptable adverse impacts on residential amenity.

The proposed dwelling on plot 55 will be built gable to the rear of existing dwellings at No. 9 and 8 Swallow Close. Again, the proposed dwelling will have a finished floor level 4m higher than the existing dwellings, however there will be a sufficient separation distance of over 23m between the dwellings and due to the orientation of the proposed dwelling it will not directly look towards the existing dwellings. There will also be a new planted buffer and 1.8m fencing added along the adjoining boundaries with existing trees retained. These factors will ensure there is no unacceptable adverse impacts on the residential amenity of these dwellings.

The proposed dwellings on plots 48-55 back onto existing dwellings in Heathermount Court. The existing dwellings at Heathermount Court sit at a higher level than the proposed dwellings and there will be a sufficient separation distance of over 30m between the existing and proposed dwellings to prevent any unacceptable overlooking or overshadowing. New 1.8m fencing and an 8m planted buffer will be added along the adjoining boundaries and existing TPO trees will be retained. This will also ensure that the residential amenity of existing and proposed residents is protected.

The proposed dwellings on plots 45-48 will back onto Nos. 20, 21 and 22 Dalton Glen. The proposed dwellings will be built at a lower level than the existing dwellings and there will be a sufficient separation distance of at least 20m between the proposed and existing dwellings. There will also be an 8m planted buffer and 1.8m fence added between the adjoining boundaries and the existing TPO trees will be retained. This will ensure that the proposed dwellings will have no unacceptable adverse impacts on the residential amenity of existing dwellings in Dalton Glen.

There are no existing dwellings along the western boundary of the site. Maxwell Court is located to the south of the site. There is nearly 30m separation distance between the site and dwelling at Maxwell Court with an outbuilding and existing trees and vegetation in between to prevent any unacceptable adverse impacts on its residential amenity.

Ardara House which contains six apartments, and an additional cottage are located to the south-east of the site. There is approximately 32m between the nearest proposed dwelling and the cottage building and 45m to Ardara House with a dense area of trees and vegetation in between to prevent any unacceptable adverse impacts on the residential amenity of the occupants of these properties.

Within the site it is considered that the residential amenity of future occupants of the dwellings will be protected as the proposed dwellings front on to the road network within the site and have front gardens and where any dwelling is back-to-back there is greater than the recommended 20m separation distance. Fencing and landscape will also be provided throughout the site and between dwellings to protect residential amenity.

It is therefore considered that the proposal complies with part (h) of Policy QD 1 of PPS 7 and all relevant guidance.

Access, Roads Safety and Car Parking

The proposal will create a new access onto Ardara Grove, which is currently a dead end with no through road. It is a Key Design Consideration in the ADAP that access to the housing zoning (designation CR 05) on the site be taken through the Ardara Grove housing estate and a right turn facility will also be required at the junction of Ardara Grove housing estate. A right turn lane on the A21 into the Ardara housing estate is included in the proposal. The A21 is a Protected Route.

There is no conflict with the Protected Route policy (AMP 3) as the site will not directly access onto the protected route and will go through the Ardara Grove housing estate.

A Transport Assessment and Transport Statement were submitted as part of the proposal which details that the right turn lane will ensure free flowing traffic on Ballygowan Road is not impacted upon by turning traffic. The Transport Statement report concludes that the existing infrastructure can accommodate the trip generation associated with the proposed development without the requirement for additional mitigation measures outside of the right turn facility at the A21/ Ardara Grove junction.

The Transport Assessment and Statement also detail that the site is well served for pedestrians with footpaths, for cyclists with the Comber Greenway nearby, there are public transport links on Railway Street approximately 450m from the site and the proposed development site is well served by variety of sustainable modes of transport.

A Parking Layout plan has been submitted which demonstrates that Parking Standards for the development sets out that for 58 dwellings with this mix of detached and semi-detached 3- and 4-bedroom dwellings that 178 spaces should be provided. The Parking Layout plan demonstrates that for the 58 dwellings, 136 incurtilage parking spaces will be provided and 42 visitor spaces will be provided throughout the site which achieves the required 178 spaces.

DfI Roads was consulted and offers no objections. The road layout meets current standards and will be adopted by DfI Roads. It is therefore considered that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic. The proposal complies with Policies AMP 2, AMP 3 and AMP 7 of PPS 3, part (f) of Policy QD1 of PPS 7 and all relevant guidance.

Impact on Built Heritage

The site is in close proximity to both Ardara House and associated gate screen

at 11 Ballygowan Road, Comber (HB24/15/037A & B, Grades B1 & B2) and Maxwell Court (HB24/15/038, Grade B1), which are of special architectural and historic interest and are protected by Section 80 of the Planning Act (NI) 2011.

A Built Heritage Assessment and photomontages and sections were submitted to demonstrate that the proposal will have no adverse impact on the setting of the listed buildings. It is considered that the proposed dwellings are a sufficient distance from the listed buildings and associated gate screen and due to existing site levels and intervening trees and vegetation the proposal will have no adverse impact on the setting of the listed buildings.

Historic Environment Division (HED) Historic Buildings was consulted and commented that it 'considers the proposal shall have negligible impact on the setting of the listed buildings as presented. If the Council's Planning Authority is minded to approve the application, HED Historic Buildings requests conditions. These comments are made in relation to the requirements of the Strategic Planning Policy Statement for Northern Ireland (SPPS) paragraph 6.12 (setting) and of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage (PPS6) Policy BH11 (Development affecting the Setting of a Listed Building).'

As requested by HED Historic Buildings, conditions will be added to any approval to ensure the landscaping of the site is carried out and remains in perpetuity as per the approved landscaping plan, during the first planting season following occupation of the first dwelling.

It is therefore considered that the proposal complies with Paragraph 6.12 of SPPS, Policy BH 11 of PPS 6, part (b) of Policy QD1 of PPS 7 and all relevant guidance.

Impact on Archaeology

The site is close to the site of a pre-Norman monastery (DOW 010:025), the precise location of which is currently unknown. In addition, there are a number of archaeological sites and monuments recorded within the environs of the application site with a particular focus of settlement activity dating to the Early Medieval/Medieval period.

Due to the large size of the development site, and given the known archaeology within the immediate area, there is the potential for previously unrecorded below-ground archaeological remains to be found during ground works for the proposal, including potentially the remains of a monastic site.

As a result, HED Historic Monuments was consulted and commented that it 'is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6.'

Conditions will be added to any approval to ensure that archaeological remains within the application site are properly identified and protected or appropriately recorded.

It is therefore considered that the proposal complies with Policy BH 4 of PPS 6, part

(b) of Policy QD1 of PPS 7 and all relevant guidance.

Security from Crime

The layout has been designed to deter crime and promote safety as all dwellings will front onto the road and public open space and rear amenity space will be protected by fencing and landscaping. It is therefore considered that the proposal complies with part (i) of Policy QD1 of PPS 7 and all relevant guidance.

Local Neighbourhood Facilities

As the proposal is for 58 dwellings there is no need to provide local neighbourhood facilities as part of the development. The site is within the settlement limit of Comber with access to shops, services, education etc. It is therefore considered that the proposal complies with part (d) of Policy QD1 of PPS 7 and all relevant guidance.

Designated Sites and Natural Heritage

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

Following an appropriate assessment in accordance with the Regulations and having considered the nature, scale, timing, duration and location of the project, SES advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects.

In reaching this conclusion, SES has assessed the manner in which the project is to be carried out, including any mitigation. SES requests that a condition is added to any approval that no development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

The method of sewage disposal has been agreed with NI Water and it is content to recommend approval of the proposal on this basis, therefore this condition will not be added to any permission.

A Preliminary Ecological Appraisal was submitted, and Natural Environment Division (NED) was consulted. It commented that it 'has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns.'

It is therefore considered that the proposal complies with Policies NH1, NH2 and NH5 of PPS 2 and will have no likely adverse impacts on designated sites, protected or priority species, habitats or features of natural heritage importance.

Flooding and Drainage

The Flood Map (NI) indicates that the site lies outside the 1 in 100-year fluvial floodplain.

As the proposal is for 58 dwellings a drainage assessment is required under Policy FLD 3 of PPS 15. This was submitted and DfI Rivers was consulted. DfI Rivers

provided comment that 'our comments from a flood risk and drainage perspective, consistent with PPS15, are as follows:

The applicant has received Schedule 6 Consent to discharge a maximum of 32 l/s to the designated watercourse, known to us as the Ballycreely & Rush Rivers (MW3513).

The applicant has also submitted adequate drainage drawings and calculations to support their proposals. Consent from NI Water to discharge into their existing system (on site CR04), which applicant states will be done post planning. Therefore, DfI Rivers while not being responsible for the submitted Drainage Assessment accepts the applicant's logic and has no reason to disagree with its conclusions.'

Policies FLD 1, 2, 4 and 5 are not applicable to the site.

It is therefore considered that the proposal complies with PPS 15 and will not cause a flood risk to the development and elsewhere.

Sewage Disposal

The consultation response from NI Water indicates that whilst there is a public foul sewer within 20m of the proposed development boundary, the receiving foul sewerage network has reached capacity.

NI Water has informed the Council that it has agreed a downstream engineering solution with the applicant to mitigate the foul capacity issue and allow connection for this development proposal. NI Water has clarified that this solution is to be fully funded and delivered by the applicant.

On this basis, NI Water has provided no objection subject to the following conditions.

1. No development shall commence until the developer has entered into an agreement with NI Water under Article 161 of the Water and Sewerage Services (Northern Ireland) Order 2006.

Reason: To ensure a practical solution to sewage disposal from this site is possible.

2. No development shall proceed beyond sub-floor construction until the foul sewerage network engineering solution, shown on a solution design drawing to mitigate the downstream foul capacity issue as agreed with NI Water, is provided by the developer to the satisfaction of NI Water. The development shall not be occupied until the developer has complied with all of the requirements set out in the agreement entered into with NI Water under Article 161 of the Water and Sewerage Services (Northern Ireland) Order 2006.

Reason: To ensure a practical solution to sewage disposal from this site is possible.

It is considered that the conditions, as proposed by NI Water, are not lawful as they relate to a legal agreement which is not part of the planning process. Moreover, the first restriction is not deemed necessary as the applicant has submitted a document indicating that they have already entered into an Article 161 Agreement with NI Water. The Planning Department is concerned that it would be unable to enforce the second condition as it relates to land outside the development boundary and compliance would not necessarily be the responsibility of the developer.

The Planning Department does not take issue with the restriction recommended by NI Water requiring compliance with the terms of the Article 161 Planning Agreement prior to occupation of the development, rather it is cognisant of the need to secure this restriction through the appropriate means to ensure it is lawful and can be enforced if required.

Consequently, it is recommended that this restriction is secured by an obligation in a Section 76 Planning Agreement which has been agreed with the developer and is currently being drafted.

5. Representations

21 letters of representation were received from 13 separate addresses. The main issues of concern are:

- Comber already saturated with housing developments – lack of infrastructure, urban sprawl, lack of schools. Already approved developments should be completed first. Cumulative impact.

This site is zoned for housing with the Area Plan and has been identified through extension consultation and a public inquiry to the Plan to be suitable for housing. Issues of impact on services and infrastructure would have been considered when designating this site for housing.

- Only a minimum of affected housing has been informed, all residents of Ardara should be informed.

The required public consultation has been carried out. Under planning legislation (Section 41 of the Planning Act 2011) it states that 'where an application for planning permission is made to the council or, as may be the case, the Department, the relevant council or the Department is required to serve notice of the application to any identified occupier on neighbouring land in accordance with Article 8(2) of the GDPO.' For the purposes of the legislation identified occupier means the occupier of premises within a 90-metre radius of the boundary of the application site and neighbouring land means land which directly adjoins the application site, or which would adjoin it but for an entry or a road less than 20m in width.

Based on the legislation above only occupiers on neighbouring land which directly adjoins the application site have been notified.

- No mention of Environmental Impact Assessment or biodiversity checklist.

An EIA determination was carried out and determined that the proposal is unlikely to have a significant environmental impact. An Ecology report was also submitted and is available on the planning portal.

- No effort of eco/friendly carbon neutral manner, climate change.

There is no planning policy that directs that developments must be eco/friendly carbon neutral. It is considered that as the site is a significant distance from the coast it is unlikely to be affected by climate change.

- Traffic Impact Analysis required – increased risk to pedestrians, road safety, traffic congestion.

A Transport Assessment and Transportation Statement were submitted and DfI Roads was consulted. DfI Roads offers no objections to the proposal from a road safety and flow of traffic perspective.

- Impractical to use Ardarawood for access and site traffic as near a school, busy junction, main arterial route, safety risk, road not designed for construction vehicles.

A key design consideration in the Plan for the zoned housing site was that access shall be taken via Ardara Grove. DfI Roads offer no objections to the proposed access and it is considered that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic.

- NI Water service not fit for purpose/ poor drainage, flooding/run off at Ardara House.

NI Water and DfI Rivers were consulted with the proposal. There are issues with connection to the public foul sewer, however NI Water has agreed a downstream engineering solution with the applicant to mitigate the foul capacity issue and allow connection for this development proposal.

A Drainage Assessment was submitted as part of the proposal and DfI Rivers offers no objections therefore the proposal will not cause a flood risk to the development or elsewhere.

- Loss of wildlife/bats, reducing green area.

A Preliminary Ecological Appraisal was submitted, and Natural Environment Division (NED) was consulted. It commented that it 'has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns.' It is therefore considered that the proposal is unlikely to adversely impact any protected or priority species or habitats.

- Visual impact, yellow bricks, chimney stacks.

It is considered that the proposal will have no adverse visual impact on the area as the site is adjacent to existing housing areas and planting will be added along the buffers and within the site to aid integration and screen the site. It is considered that the proposed materials will be sympathetic to surrounding area.

- Boundary line runs through hedge and garden of Ardara House, developer does not own all the land.

This issue was raised with the applicant/agent and amended plans were submitted to ensure all the land within the redline is owned/controlled by the applicant.

- The Cottage not Neighbour Notified.

The address point for this property does not appear on the Council's GIS, however once made aware that this property exists, a neighbour notification letter was issued to this address. The occupant has not been prejudiced as they are aware of the planning application and has made representations.

- Impact on listed buildings.

Due to the proximity of the site to listed buildings, Historic Environment Division was consulted. HED considers the proposal shall have negligible impact on the setting of the listed buildings as presented provided it is conditioned within any planning approval that the landscaping of the site is carried out and remains in perpetuity as per the approved landscaping plan.

- Overlooking to Ardara House. Too many trees proposed behind blocking light.

There is approximately 32m separation distance between the nearest proposed dwelling and the cottage building adjacent to Ardara House and 45m to Ardara House with a dense area of trees and vegetation in between to prevent any unacceptable adverse impacts on the residential amenity of the occupants of these residential units. The trees and landscaping of the site will be conditioned as per the comments of Historic Environment Division to protect the setting of this listed building.

- TPO trees must be retained.

A Tree Survey report and detailed plans have been submitted to indicated which trees will be retained. The Council's Tree Officer was consulted and is content with the proposal and conditions will be added to any approval to ensure the trees are protected.

- Area plan outdated.

The Area Plan is dated 2015 and is not considered as outdated.

- Overlooking/ loss of light Swallow Close.

The impact of the proposal on the residential amenity of Swallow Close has been considered in detail previously in the report. It is considered that the proposal will have no unacceptable adverse impacts on residential amenity due to separation distances of between 23m and 30m between the proposed and existing dwellings, trees will be retained along the adjoining boundaries and a new planted buffer and 1.8m fencing will be added along adjoining boundaries to provided screening.

- Impact on property prices.

This is not a material planning consideration as property prices can fluctuate for many reasons that are outside the remit of planning.

- Noise/ dust etc. from construction.

It is considered that any potential noise/ dust etc. from the construction phase will be temporary. Environmental Health was consulted in relation to noise and has requested that a condition is added to any approval to prevent any adverse impacts from noise and ensure there is no construction work outside the hours of 07:00 – 19:00hrs Monday to Friday, Saturday 08:00- 13:00hrs and at no time on Sundays or Public Holidays.

- Why ask for objections if the Council does not listen to concerns of local residents.

The Council considers any material planning considerations that are raised during the determination of the application. This report sets out the reasons why this planning application is considered acceptable in relation to the development plan and all relevant planning policies and guidance.

6. Recommendation

Grant Planning Permission

7. Conditions

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

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

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

The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 21A bearing the date stamp 11 April 2022.

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

3. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No. 21A bearing the date stamp 11 April 2022. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure that the road works considered necessary to provide a

proper, safe and convenient means of access to the development are carried out.

4. No dwelling 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

5. No dwelling shall be occupied until provision has been made and permanently retained within the curtilage of the site for the parking of private cars at the rate of 2 spaces.

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

6. All hard and soft landscape works shall be carried out in accordance with the approved details as indicated on Drawing No. 16C bearing the date stamp 14 November 2022 and the relevant British Standard 5837: 2012 or other recognised Codes of Practice. All new planting as indicated on the stamped approved drawing shall be undertaken during the first available planting season after the occupation of the first dwelling hereby approved and retained in perpetuity.

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

7. The management and maintenance of the approved landscaping shall be carried out in accordance with the approved Landscape Management Plan prepared by LK Design Space dated 14 November 2022 and shall remain in perpetuity.

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

8. The existing trees as indicated on Drawing No. 118 bearing the date stamp 14 November 2022 shall be retained. 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, or any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written consent of the Council. Any arboricultural work or tree surgery approved shall be carried out in accordance with the relevant British Standard 3998: 2010.

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

9. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plan Drawing No. 118 bearing the date stamp 14 November 2022 and in accordance with BS5837:2012 before

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

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

10. 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.

11. Prior to the commencement of development, the details of the proposed utility apparatus associated with the development, including foul and storm sewers, shall be submitted to the Council for approval in writing. The development shall be carried out in accordance with the approved details.

Reason: To ensure that construction is carried out without causing root damage to protected trees.

12. The long-term management and maintenance of the open space as indicated on Drawing No. 16C bearing the date stamp 14 November 2022, shall be undertaken by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, must be submitted to and agreed in writing by the Council prior to the occupation of any dwelling hereby approved.

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

13. No more than 25 dwellings hereby approved shall be occupied on site until the proposed open space as indicated on Drawing No. 16C bearing the date stamp 14 November 2022 has been laid out in accordance with the approved details. The open space areas shall be permanently retained and shall not thereafter be used for any purpose other than as open space.

Reason: To ensure amenity space is available concurrently with the development of the site.

14. Construction works shall not take place outside the following hours:
07:00 – 19:00hrs Monday to Friday, Saturday 08:00- 13:00hrs and at no time

on Sundays or Public Holidays.

Reason: To protect the amenity of the occupiers of nearby residential premises.

15. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by the Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:
- The identification and evaluation of archaeological remains within the site;
 - Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
 - Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
 - Preparation of the digital, documentary and material archive for deposition.

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

16. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 15.

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

17. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 15. These measures shall be implemented, and a final archaeological report shall be submitted to the Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council.

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

18. The retaining structures hereby approved shall be constructed in accordance with Drawing No. 04A bearing the date stamp 11 April 2022 and Drawing No. 90 bearing the date stamp 28 June 2021 in accordance with the recommendations of B58002: 1994, Code of Practice for Earth Retaining Structures, in association with the appropriate codes of practice for construction materials.

Reason: To ensure the stability of the proposed structures abide by building regulations.

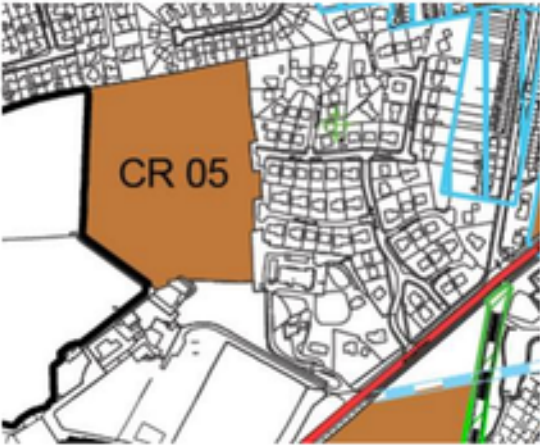
Informatives:
This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose. Developers are advised to check all other informatives, advice or guidance provided by consultees,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

Case Officer Signature:		Date:	
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Aerial Photo of Site



Extract from Ards and Down Area Plan 2015 to show housing zoning CR 05



Site Layout Plan



Examples of House Types





Site Photos

View of the site looking from Ardara Elms



View of the site from Ardara Elms looking towards the south



View of site looking northwards towards Heathermount and Dalton Glen



View of site from Ardara Grove



View of site from Maxwell Court looking northwards



View of site looking from Maxwell Court towards Ardara housing (east)

