



March 1st, 2023

Chairman : Alderman J Tinsley

Vice Chairman : Councillor John Palmer

Aldermen : W J Dillon MBE, D Drysdale, O Gawith and A Grehan

Councillors : J Craig, M Gregg, U Mackin, J McCarthy and A Swan

**Notice of Meeting**

A meeting of the Planning Committee will be held on **Monday, 6th March 2023 at 10:00 am**, in the **Council Chamber and Remote Locations** for the transaction of business on the undernoted Agenda.

**David Burns**  
**Chief Executive**

# Agenda

## 1.0 Apologies

## 2.0 Declaration of Interests

- (i) Conflict of Interest on any matter before the meeting (Members to confirm the specific item)
- (ii) Pecuniary and non-pecuniary interest (Member to complete the Disclosure of Interest form)

## 3.0 Minutes of the Planning Committee Meeting held on 6 February, 2023

▢ *PC 06.02.2023 - Draft Minutes for adoption.pdf*

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## 4.0 Report from the Head of Planning and Capital Development

### 4.1 Schedule of Applications to be Determined:

▢ *Item 1 - Schedule of Applications - March - Drafted.pdf*

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- (i) LA05/2022/0432/F - Part Retrospective Application at Let's Go Hydro Resort at Land at Mealough Road and at 1 Mealough Road, Carryduff (Let's Go Hydro)

▢ *Appendix 1.1 - DM Officer Report - LA0520220432F - Lets Go Hydro - Major...pdf*

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- (ii) LA05/2021/1352/F - Provision of new site access including right hand turn lane and all other associated work at land at Mealough Road and at No. 1 Mealough Road, Carryduff (Lets Go Hydro)

▢ *Appendix 1.2 - DM Officer Report - LA0520211352F - Lets Go Hydro - Road ...pdf*

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- (iii) LA05/2021/1364/O - Dwelling and garage 150m due west of 38 Backnamullagh Road, Dromore

▢ *Appendix 1.3 - DM Officer Report - LA0520211364O - 38 Backnamullagh Road...pdf*














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- (iv) LA05/2022/0704/F - Temporary permission for mobile home to facilitate farming operations approx. 37m southwest of 245 Moira Road, isburn

▢ *Appendix 1.4 - DM Officer Report - LA0520220704F - 245 MoiraRoad - Mobil...pdf*

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- (v) LA05/2022/0707/F - Proposed two bedroom detached bungalow adjacent and south of 30 Rossdale Heights, Ballymaconaghy, Belfast

|            |   |          |
|------------|---|----------|
|            | <a href="#"> Appendix 1.5 - DM Officer Report - LA0520220707F - adj S of 30 Rossdale ...pdf</a>    | Page 126 |
| (vi)       | <b>LA05/2022/0482/RM - Proposed dwelling with detached garage at site SW of no. 7 Pot Hill Lane, Lisburn</b>  |          |
|            | <a href="#"> Appendix 1.6 - DM Officer Report - LA0520220482RM pot hill lane - FINAL....pdf</a>    | Page 142 |
| <b>4.2</b> | <b>Appeal Decisions in respect of Planning Applications LA05/2018/0302/F, LA05/2018/0303/F and LA05/2018/0304/F</b>   |          |
|            | <a href="#"> Item 2 - Appeal Decision - LA05 2018 0302 0303 0304F - Drafted.pdf</a>                | Page 165 |
|            | <a href="#"> Appendix 2 - Appeal decision - LA05 2018 0302 0303 0304F.PDF</a>                      | Page 169 |
| <b>4.3</b> | <b>Appeal Decisions in respect of Planning Applications LA05/2021/0071/O and LA05/2021/0072/O</b>   |          |
|            | <a href="#"> Item 3 - Appeal Decision - LA05 2021 0071 and 0072O - Drafted.pdf</a>                 | Page 178 |
|            | <a href="#"> Appendix 3(a) - Appeal decision LA05 2021 0071O.PDF</a>                               | Page 182 |
|            | <a href="#"> Appendix 3(b) - Appeal decision LA05 2021 0072O.PDF</a>                             | Page 187 |
| <b>4.4</b> | <b>CPRE (Somerset) R (On the Application Of) v South Somerset District Council 2022 EWHC 2817 (Admin) (08 November 2022)</b>  |          |
|            | <a href="#"> Item 4 - CPRE (Somerset) R (On the Application Of) v South Somerset Dis...pdf</a>   | Page 193 |
|            | <a href="#"> Appendix 4 - CPRE (Somerset), R (On the Application Of) v South Somerset....pdf</a> | Page 196 |
| <b>4.5</b> | <b>Statutory Consultation Quarterly Performance Report - Q2 for 2022/23</b>   |          |
|            | <a href="#"> Item 5 - Statutory Consultation Quarterly Performance Report - Q2 - Draf...pdf</a>  | Page 212 |
|            | <a href="#"> Appendix 5 - Statutory Consultations Quarterly Report - Q2 2022_23.pdf</a>          | Page 216 |
| <b>4.6</b> | <b>Notification by Telecommunication Operator(s) of Intention to Utilise Permitted Development Rights</b>   |          |
|            | <a href="#"> Item 6 - Notification by telecommunication operator(s) of intention - Dr...pdf</a>  | Page 232 |
|            | <a href="#"> Appendix 6 - List of Notifications from Telecommunication Operators in r....pdf</a> | Page 235 |

#### **4.7 Statutory Performance Indicators - January 2023**

**📄 *Item 7 - Statutory Performance Indicators - January 2023 - Drafted.pdf***

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**📄 *Appendix 7 - Lisburn\_Castlereagh\_Jan\_Monthly\_MI.PDF***

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### **5.0 Any Other Business**

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**LISBURN & CASTLEREAGH CITY COUNCIL**

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**Minutes of Planning Committee Meeting held in the Council Chamber and in Remote Locations on Monday, 6 February, 2023 at 10.00 am****PRESENT IN CHAMBER:**

Alderman J Tinsley (Chairman)

Councillor John Palmer (Vice-Chairman)

Aldermen W J Dillon MBE, D Drysdale, O Gawith and A Grehan

Councillors D J Craig, M Gregg, U Mackin and A Swan

**IN ATTENDANCE IN CHAMBER:**

Director of Service Transformation  
 Head of Planning & Capital Development  
 Principal Planning Officer (RH)  
 Senior Planning Officers (RT and MCO'N)  
 Member Services Officers

Mr B Martyn (Cleaver Fulton Rankin) – Legal Advisor

**Commencement of Meeting**

At the commencement of the meeting, the Chairman, Alderman J Tinsley, welcomed those present to the Planning Committee. The Chairman pointed out that, unless the item on the agenda was considered under confidential business, this meeting would be audio recorded. The Head of Planning & Capital Development outlined the evacuation procedures in the case of an emergency.

1. **Apologies** (00:02:37)

There were no apologies.

At this point, the Member Services Officer read out the names of the Elected Members and Officers in attendance at the meeting.

2. **Declarations of Interest** (00:04:12)

Alderman W J Dillon advised that he had been contacted by the applicant of planning applications LA05/2021/0571/O and LA05/2021/0572/O. He had listened to what the applicant had to say but had offered no opinion.

Alderman O Gawith advised that in respect of planning application LA05/2021/0324/F, the immediate neighbour was his friend and the neighbour on the other side had previously asked him for advice.

Councillor U Mackin advised that, in respect of planning application LA05/2021/1014/O, he had received an email from the applicant. He had acknowledged the email but had made no comment on the application.

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2. Declarations of Interest (Contd)

Councillor John Palmer advised that, in respect of planning applications LA05/2021/0571/O and LA05/2021/0572/O, one of the objectors had been in correspondence with his wife, Councillor Jenny Palmer.

3. Minutes of Meeting of Planning Committee held on 9 January, 2023 and Special Meeting of Planning Committee held on 9 January, 2023 (00:06:12)

It proposed by Councillor U Mackin, seconded by Councillor A Swan and agreed that the minutes of the meeting of Committee held on 9 January, 2023 and the special meeting of Committee held on 9 January, 2023 be confirmed and signed.

4. Report from the Head of Planning & Capital Development

4.1 Schedule of Applications (00:06:50)

The Chairman, Alderman J Tinsley, advised that the below application had been withdrawn from today's schedule and would be considered at a special meeting of the Planning Committee to be convened later in the month. This would afford adequate time to consider correspondence received on Friday:

- LA05/2021/0033/F – Proposed mixed use development comprising 153 residential units in a mix of apartments, semi-detached and detached units with associated private amenity provision and public open spaces; 28 Class B2 and B4 industrial/employment units (4,272 square metres in total); a neighbourhood centre (965 square metres in total) comprising a petrol filling station with associated convenience store and 4 retail units (2 class A1 and 2 Sui Generis hot food bars); associated car parking; landscaping; creation of new accesses from Carrowreagh Road and Ballyoran Lane with associated works to the public road; and other ancillary development at lands formerly occupied by the Rolls Royce factory north of Upper Newtownards, south of Inspire Business Centre, east of Ballyoran Lane and west of Carrowreagh Road, Dundonald

4.1.1 Applications to be Determined (00:08:10)

The Legal Advisor, Mr B Martyn, highlighted paragraphs 43-46 of the Protocol for the Operation of the Lisburn & Castlereagh City Council Planning Committee which, he advised, needed to be borne in mind when determinations were being made.

Due to technical difficulties, it was agreed that the non-planning schedule report items would be considered at this point, followed by the schedule of applications.

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#### 4.2 Planning Monitoring Framework 2021/22 (00:12:40)

It was proposed by Councillor M Gregg seconded by Councillor D J Craig and agreed to note information on the content of the Planning Monitoring Framework 2021/22. A further report would be provided upon receipt of the associated report, providing infographics for the overall position and for each council area.

#### 4.3 Appeal Decision in respect of Planning Application LA05/2020/0506/O (00:14:25)

It was proposed by Councillor M Gregg seconded by Councillor D J Craig and agreed to note information set out in the report in respect of the decision of the Planning Appeals Commission (PAC) regarding the above planning application.

#### 4.4 Appeal Decision in respect of Planning Application LA05/2019/0168/F (00:16:30)

It was proposed by Councillor M Gregg seconded by Councillor D J Craig and agreed to note that the appeal in respect of the above planning application had been withdrawn.

#### 4.5 Notification by Telecommunication Operator(s) of Intention to Utilise Permitted Development Rights (00:18:07)

It was proposed by Councillor M Gregg seconded by Councillor D J Craig and agreed to note from the report, information regarding notification by telecommunication operators to utilise Permitted Development Rights at a number of locations.

#### 4.6 Organisational and Personnel Changes in the Department for Infrastructure – Planning Group (00:18:36)

It was proposed by Councillor M Gregg seconded by Councillor D J Craig and agreed to note correspondence indicating key changes in personnel in the Department for Infrastructure, as well as a guide to the operational responsibilities of the Planning Group with oversight of the planning system.

The schedule of applications, under item 4.1, were now considered.

- (i) LA05/2021/1263/F – Proposed two storey dwelling with alterations to existing garage so it is part of the curtilage and accessed from 5 Ballycrune Road at site between 277 Ballynahinch Road and 1B Ballycrune Road, Annahilt (00:20:00)

The Principal Planning Officer (RH) presented the above application as outlined within the circulated report.

The Committee received Mr J Todd in order to speak in support of the application and he addressed a number of Members' queries.

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- (i) LA05/2021/1263/F – Proposed two storey dwelling with alterations to existing garage so it is part of the curtilage and accessed from 5 Ballycrune Road at site between 277 Ballynahinch Road and 1B Ballycrune Road, Annahilt (Contd)

Vote

Having considered the information provided within the report of the Planning Officer, the Committee agreed unanimously to adopt the recommendation to approve the application.

- (ii) LA05/2022/0699/O – Residential development at land adjacent to and to the rear of no.74 Glebe Road and to the rear of nos.233-239 Ballynahinch Road, Annahilt (00:35:20)

The Senior Planning Officer (MCO’N) presented the above application as outlined within the circulated report.

The Committee received Mr J Quinn in order to speak in support of the application and he addressed a number of Members’ queries.

A number of Members’ queries were responded to by Planning Officers.

Vote

Having considered the information provided within the report of the Planning Officer, the Committee agreed unanimously to adopt the recommendation to refuse the application.

Adjournment of Meeting

The Chairman, Alderman J Tinsley, declared the meeting adjourned for a comfort break at this point (11.04 am).

Resumption of Meeting

The Chairman, Alderman J Tinsley, declared the meeting resumed (11.13 am).

- (iii) LA05/2021/1014/O – Proposed infill dwelling and garage 50 metres northeast of 75 Drennan Road, Lisburn (01:03:03)

The Senior Planning Officer (RT) presented the above application as outlined within the circulated report.

The Committee received Mr M McNeill, accompanied by Mr G Clingan, in order to speak in support of the application and they addressed a number of Members’ queries.

A number of Members’ queries were responded to by Planning Officers.



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- (iii) LA05/2021/1014/O – Proposed infill dwelling and garage 50 metres northeast of 75 Drennan Road, Lisburn (Contd)

#### Vote

Having considered the information provided within the report of the Planning Officer, the Committee agreed unanimously to not adopt the recommendation to refuse the application.

Given that the Officer recommendation to refuse planning permission had fallen, it was proposed by Councillor U Mackin, seconded by Councillor M Gregg and agreed that, in approving the planning application, a number of reasons were offered.

On a vote being taken, it was agreed unanimously to approve the granting of planning permission to this application and that the precise wording of the conditions agreed in principle, as set out above, be delegated to the Head of Planning & Capital Development.

#### Adjournment of Meeting

The Chairman, Alderman J Tinsley, declared the meeting adjourned for lunch (12.31 pm).

#### Resumption of Meeting

The Chairman, Alderman J Tinsley, declared the meeting resumed (1.19 pm).

- (iv) LA05/2021/0571/O – Site for infill dwelling 60m south west of 4a Magees Road, Ballinderry Upper, Lisburn  
&  
(v) LA05/2021/0572/O – Site for infill dwelling 100m north east of 6 Magees Road, Ballinderry Upper, Lisburn (02:20:32)

Having declared an interest in the above applications, Councillor John Palmer left the meeting at 1.20 pm.

At the outset, Alderman O Gawith proposed that the above applications be deferred for a site visit in order that Members could view the sites and ascertain whether they deemed them to constitute small gap sites in otherwise substantial continuous frontage. Alderman Gawith stressed that he would reserve judgement until he had seen the sites. This proposal was seconded by Councillor D J Craig.

The Head of Planning & Capital Development urged caution in discussing policy considerations given that Officers had not yet presented the applications and Members had not yet heard from the applicant or objectors. If a site visit was proposed, it should be for the purposes of (a) viewing the site and (b) considering whether the proposal would be consistent with established pattern of development.

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- (iv) LA05/2021/0571/O – Site for infill dwelling 60m south west of 4a Magees Road, Ballinderry Upper, Lisburn  
&
- (v) LA05/2021/0572/O – Site for infill dwelling 100m north east of 6 Magees Road, Ballinderry Upper, Lisburn (Contd)

On a vote being taken, it was agreed that the application would not be deferred to a site visit, the voting being 3 in favour and 5 against.

Alderman O Gawith stated that he would abstain from the vote in respect of these applications.

The Senior Planning Officer (RT) presented the above applications as outlined within the circulated report.

The Committee received the following speakers in order to speak on the applications:

- Mr P Mobbs in opposition to the application;
- Councillor N Trimble in opposition to the application;
- Mr T Holdsworth in support of the application; and
- Councillor R T Beckett in support of the application.

The above speakers addressed a number of Members' queries.

A number of Members' queries were responded to by Planning Officers.

### Vote

Having considered the information provided within the report of the Planning Officer, the Committee agreed to adopt the recommendation to approve planning application LA05/2021/0571/O, the voting being 8 in favour, none against and one abstention.

Having considered the information provided within the report of the Planning Officer, the Committee agreed to adopt the recommendation to approve planning application LA05/2021/0572/O, the voting being 8 in favour, none against and one abstention.

At the request of Councillor M Gregg, it was agreed that a condition be applied to the planning permission for the above applications requiring that any trees removed be replaced two for one, consistent with the Council policy for the replacement of trees.

Councillor John Palmer returned to the meeting following consideration of these applications (2.43 pm).

### Adjournment of Meeting

The Chairman, Alderman J Tinsley, declared the meeting adjourned for a comfort break at this point (2.43 pm).

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### Resumption of Meeting

The Chairman, Alderman J Tinsley, declared the meeting resumed (2.48 pm).

- (vi) LA05/2021/0324/F – Conversion of existing dwelling to two apartments at 49 Castlevue Park, Moira (03:44:22)

Having declared an interest in this application, Alderman O Gawith did not return to the meeting at this point.

The Principal Planning Officer (RH) presented the above application as outlined within the circulated report.

The Committee received Mr J McElroy in order to speak in support of the application and he addressed a number of Members' queries.

A number of Members' queries were responded to by Planning Officers.

### Vote

Having considered the information provided within the report of the Planning Officer, the Committee agreed unanimously to adopt the recommendation to refuse the application.

Alderman O Gawith returned to the meeting (3.07 pm).

- (vii) LA05/2020/0853/O – New dwelling (detached) between 23a and 23 Ballinderry Road, Aghalee, Craigavon (04:03:56)

The Principal Planning Officer (RH) presented the above application as outlined within the circulated report.

The Committee received Mr J McElroy in order to speak in support of the application and he addressed a number of Members' queries.

A number of Members' queries were responded to by Planning Officers.

### Vote

Having considered the information provided within the report of the Planning Officer, the Committee agreed unanimously to adopt the recommendation to refuse the application.

## 5. Any Other Business

- 5.1 Update on Planning Portal (04:36:25 and 04:46:42)  
Chairman, Alderman J Tinsley

At the request of the Chairman, Alderman J Tinsley, the Head of Planning & Capital Development provided an update in respect of the new planning portal. He

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5.1 Update on Planning Portal (Contd)  
Chairman, Alderman J Tinsley

referred to challenges that had been encountered in using both the front-end and back-end of the system. A number of programmed fixes were planned to take place throughout this month and those would hopefully address issues around data migration problems. It was the intention of the Department to keep the Client Project Team in place until June/July to assist local authorities. Difficulties being experienced by Planning Officers in relation to the planning portal were being raised both with the Department and with the system designers.

The Head of Planning & Capital Development took account of comments made regarding the benefit of training being given to Members in respect of accessing the new planning portal. He acknowledged that technology being used by Members of the Planning Committee required to be updated and that was currently being addressed. In agreeing to implement training for Members, he took account of further comments regarding the timing of this, ie. this being considered once the programme fixes had been carried out this month and the fact that Committee makeup was likely to change following the forthcoming elections.

5.2 Update on Knockmore Link Road (04:44:36)  
Councillor A Swan

Councillor A Swan sought an update on the Knockmore Link Road. The Head of Planning & Capital Development advised that two meetings had taken place with the Department in respect of the Local Development Plan. It was hoped to have a timetable of when the plan would be adopted which would likely be an important consideration in relation to the Knockmore Link Road. The Department had advised that it remained on track in terms of its assessment of the Planning Appeal Commission report. It was anticipated that by mid-March it should be clearer when the report would be released and the type of direction that would come from the Department. However, that did not speak to the planning application. The Head of Planning & Capital Development confirmed that he would be seeking an urgent meeting with the new Chief Planning Officer, Mr A Beggs, to discuss this specific application.

“In Committee”

It was proposed by Councillor D J Craig, seconded by Alderman O Gawith and agreed that the following item be considered “in committee”, in the absence of members of the press and public being present (4.06 pm).

5.3 Update on Ongoing Judicial Reviews  
Councillor A Swan

Alderman D Drysdale left the meeting during consideration of this item of business (4.15 pm).

The Legal Advisor, Mr B Martyn, provided a verbal update in relation to ongoing judicial reviews.

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5.3 Update on Ongoing Judicial Reviews (Contd)  
Councillor A Swan

The Legal Advisor provided Members with a case law update on apparent bias in relation to a recent case in the High Court in England.

Resumption of Normal Business

It was proposed by Councillor John Palmer, seconded by Councillor D J Craig and agreed to come out of committee and normal business was resumed.

5.4 Special Meeting of Planning Committee (05:02:00)  
Chairman, Alderman J Tinsley

As referred to under item 4.1 earlier, the Chairman, Alderman J Tinsley, advised that a special meeting of the Planning Committee would be convened in order to consider planning application LA05/2021/0033/F.

The Head of Planning & Capital Development stated that provisional dates of either 13 or 20 February, 2023 were currently being held; however, he had been made aware that amended plans were to be submitted and, should those changes be significant, it may be necessary to go through the consultation and neighbour notification process again and the special meeting would then be further delayed.

There being no further business, the meeting was terminated at 4.24 pm.

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Chairman/Mayor



## Planning Committee

06 March 2023

### Report from:

Head of Planning and Capital Development

### Item for Decision

**TITLE:** Item 1 - Schedule of Planning Applications to be determined

### Background and Key Issues:

#### Background

1. The following applications have been made to the Council as the Local Planning Authority for determination.
2. In arriving at a decision (for each application) the Committee should have regard to the guiding principle in the SPPS (paragraph 3.8) 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.
3. Members are also reminded about Part 9 of the Northern Ireland Local Government Code of Conduct and the advice contained therein in respect of the development management process with particular reference to conflicts of interest, lobbying and expressing views for or against proposals in advance of the meeting.

#### Key Issues

1. The applications are presented in accordance with the current scheme of delegation. There is one major applications and five local applications of which three are called-in, one is mandatory and the other is linked to the major application (and referred at the discretion of the Head of Planning and Capital Development).

2. The following applications will be decided having regard to paragraphs 42 to 53 of the Protocol of the Operation of the Planning Committee.
- (a) LA05/2022/0432/F - Part retrospective application at the Let's Go Hydro resort comprising a change of use of land to provide ancillary extension of existing and approved recreational water park facility, glamping accommodation, staff accommodation, car parking, reconfiguration and extension to restaurant/ cafe building and provision of conferencing rooms, extension of clubhouse restaurant building, reception building, members club building with cafe (cable hub), house boats, camping and caravan hook-up areas, paths, solar panels, change of use of existing river house and river cottage buildings to ancillary self-catering holiday accommodation, storage and other ancillary buildings/ structures, landscaping and all associated works at Land at Mealough Road and at No 1 Mealough Road, Carryduff  
Recommendation – Approval
  - (b) LA05/2021/1352/F – Provision of new site access including right hand turn lane and all other associated work on Land at Mealough Road and at No 1 Mealough Road, Carryduff (Lets Go Hydro)  
Recommendation – Approval
  - (c) LA05/2021/1364/O – Outline planning permission for a rural dwelling and garage on a farm on a site 150 metres due west of 38 Backnamullagh Road, Dromore  
Recommendation – Refusal
  - (d) LA05/2022/0704/F - Temporary permission for mobile home to facilitate farming operations on site Approx. 37 metres southwest of 245 Moira Road, Lisburn  
Recommendation - Refusal
  - (e) LA05/2022/0707/F - Proposed two-bed detached bungalow on a site adjacent and south of 30 Rossdale Heights, Ballymaconaghy, Belfast  
Recommendation - Refusal
  - (f) LA05/2022/0482/RM - Proposed dwelling with detached garage in courtyard arrangement on a site southwest of 7 Pothill Lane, Lisburn  
Recommendation – Approval

#### **Recommendation:**

For each application the Members are asked to make a decision having considered the detail of the Planning Officer's report, listen to any third party representations, ask questions of the officers, take legal advice (if required) and engage in a debate of the issues.

#### **Finance and Resource Implications:**

Decisions may be subject to:

- (a) Planning Appeal (where the recommendation is to refuse)
- (b) Judicial Review

Applicants have the right to appeal against a decision to refuse planning permission. Where the Council has been deemed to have acted unreasonably the applicant may apply for an award of costs against the Council. This must be made at the time of the appeal. The Protocol for the Operation of the Planning Committee provides options for how appeals should be resourced.

In all decisions there is the right for applicants and third parties to seek leave for Judicial Review. The Council will review on an on-going basis the financial and resource implications of processing applications.

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy? No

**If no, please provide explanation/rationale**

The policies against which each planning application is considered have been subject to a separate screening and/or assessment for each application. There is no requirement to repeat this for the advice that comes forward in each of the appended reports.

If yes, what was the outcome:

|  |     |   |     |  |     |
|--|-----|---|-----|--|-----|
| <b>Option 1</b><br>Screen out without mitigation | N/A | <b>Option 2</b><br>Screen out with mitigation | N/A | <b>Option 3</b><br>Screen in for a full EQIA | N/A |
|--|-----|---|-----|--|-----|

**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

### 2. Rural Needs Impact Assessment:

|  |    |   |    |  |
|--|----|---|----|--|
| Has consideration been given to Rural Needs? | No | Has a Rural Needs Impact Assessment (RNIA) template been completed? | No |  |
|--|----|---|----|--|

**If no, please given explanation/rationale for why it was not considered necessary:**



The policies against which each planning application is considered have been subject to screening and/or assessment. There is no requirement to repeat this for the advice that comes forward on each of the appended reports.

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**APPENDIX 1.1 - LA05/2022/0432/F**  
**APPENDIX 1.2 – LA05/2021/1352/F**  
**APPENDIX 1.3 – LA05/2021/1364/O**  
**APPENDIX 1.4 – LA05/2022/0704/F**  
**APPENDIX 1.5 - LA05/2022/0707/F**  
**APPENDIX 1.6 - LA05/2022/0482/RM**

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

**If Yes, please insert date:**

## Lisburn & Castlereagh City Council

|                           |   |
|---------------------------|---|
| Council/Committee         | Planning Committee  |
| Date of Committee Meeting | 06 March 2023   |
| Committee Interest        | Major   |
| Application Reference     | LA05/2022/0432/F  |
| Date of Application       | 27 April 2022   |
| District Electoral Area   | Castlereagh South   |
| Proposal Description      | Part retrospective application at Let's Go Hydro Resort comprising; change of use of land to provide ancillary extension of existing and approved recreational water park facility, glamping accommodation, staff accommodation, car parking, reconfiguration and extension to restaurant/ cafe building and provision of conferencing rooms, extension of clubhouse restaurant building, reception building, members club building with cafe (cable hub), house boats, sand sports arena, camping and caravan hook-up areas, paths, solar panels, change of use of existing river house and river cottage buildings to ancillary self-catering holiday accommodation, storage and other ancillary buildings/structures, landscaping and all associated works |
| Location                  | Land at Mealough Road and at 1 Mealough Road, Carryduff (Lets Go Hydro)   |
| Representations           | One   |
| Case Officer              | Mark Burns  |
| Recommendation            | <b>APPROVAL</b>   |

### Summary of Recommendation

1. This application is presented to the Planning Committee with a recommendation to approve as it in part provides enhanced access to outdoor sport and recreation facilities at an established site in the open countryside in accordance with the SPPS and policies OS 3 and OS 6 of PPS8.

2. It is further considered that the requirements of the SPPS and policies TSM 2, 5 and 7 are met in full as the detailed layout, general arrangement and design of the additional amenities, self-catering accommodation and other ancillary accommodation is acceptable at an established tourism asset in the open countryside. .
3. The proposal also complies with the SPPS and the relevant policy tests of policies of NH 1, NH 2 and NH 5 of PPS 2 in that the ecological appraisal and assessment submitted in support of the application demonstrates that the proposed development will not have a negative impact on any protected species or natural heritage feature within the site.
4. It is considered that the proposal complies with the SPPS and policy tests associated with policies AMP 2 and AMP 7 of PPS 3 in that the detail submitted demonstrates that the proposed development can continue to be operated without any road safety issue or adverse traffic impact. .
5. The proposed development complies with policy tests set out in the SPPS and policies FLD 1, 2, 3, and 5 of PPS 15 in that the detail associated with the Flood Risk and Drainage Assessment demonstrates that adequate mitigation is in place so there will be no additional flood risk.
6. The proposal is considered to comply with the SPPS and policy BH 2 of PPS 6 in that the detail provided in support of the application demonstrates that the proposal will not cause harm to any features of archaeological importance.
7. Finally it is considered whilst limited weight is afforded to the requirements of draft policies ENV 3 of draft BMAP it is still material considerations to be weighed in the decision making process. It is accepted that the nature and scale of the proposed works will not have an adverse impact on the Local Landscape Policy Area (CF14 Saintfield Road) as the proposal is in accordance with the regional policy provisions detailed above and the features of the LLPA are accounted for in the detail of the design.

## Description of Site and Surroundings

### Site Context

8. The site is located to the western side of the Saintfield Road and North West of the Mealough Road at the site of a former NI Water reservoir that is converted to outdoor sports and recreation facility and tourism asset.
9. The boundaries of the site are comprised of a wall along the Saintfield road, fencing along the Mealough Road and hedgerow and trees on the other two edges. The within step down from the edge of the Saintfield Road in a series of several terraced grassed areas on which the established facilities are operated.

10. The principal access to the site is via the Mealough Road and then through a network of internal access roads and footpaths within the wider site. There is an existing car park close to the main entrance which serves the entire site.

### Surrounding Context

11. This is a mixed use area located on the edge of Carryduff. The lands to the east are predominantly residential in character. To the north they are in employment and commercial use.
12. To the west and south the area is mainly rural in character and the land in agricultural use albeit the land to the south is proposed for residential use and development is recently commenced.

### Proposed Development

13. Full planning permission is sought in part retrospectively for a change of use of land to provide an extension of existing and approved recreational water park facility, glamping accommodation, staff accommodation, car parking, reconfiguration and extension to restaurant/ cafe building and provision of conferencing rooms, extension of clubhouse restaurant building, reception building, members club building with cafe (cable hub), house boats, camping and caravan hook-up areas, paths, solar panels, change of use of existing river house and river cottage buildings to ancillary self-catering holiday accommodation, storage and other ancillary buildings/ structures, landscaping and all associated works.

### Relevant Planning History

14. The relevant planning history is as follows:

| Application Reference | Proposal  | Decision                        |
|-----------------------|---|---------------------------------|
| LA05/2017/0535/F      | The proposed Phase 1 is a change of a use of the existing reservoir to a new recreational water park. There is to be an upgrade of the existing access and associated parking, provision of paths and pontoons, 10 camping pods and associated facilities; lifeguard, reception and storage buildings. A boathouse consisting of clubhouse and storage facilities for the Belfast Kayak Academy will also be created alongside 2 no. water polo pitches | Permission Granted – 09/03/2018 |
| LA05/2018/0803/F      | The proposal is for the retrospective development of a cable park. A cable run has been installed on the reservoir with a   | Permission Granted – 18/07/2019 |

| Application Reference | Proposal   | Decision                        |
|-----------------------|--|---------------------------------|
|                       | storage shed erected on the reservoir shore. A pedestrian gate is proposed on the existing path to provide access to the Saintfield Road, at a safe location adjacent to the pedestrian crossing   |                                 |
| LA05/2018/0804/F      | The proposal is for the retrospective development of an Aqua Park. The existing boathouse has been enlarged internally with an additional 4 containers erected on site to provide further administrative, retail and storage space. The Aqua Park is inflatable and installed on the reservoir alongside a grandstand. The external works has been altered and a new private access road has been provided                         | Permission Granted – 18/07/2019 |
| LA05/2018/0805/F      | The proposal is for the retrospective development of a glamping site. The number of camping pods has increased to 41 (10no. existing camping pods with an additional 30no. camping pods and a barrel sauna). This is supported by a change of use of the existing house into the site administrative headquarters, staff quarters and a public café. The existing car park has increased in size to accommodate up to 116 vehicles | Permission Granted – 18/07/2019 |
| LA05/2018/1255/F      | Temporary covered changing rooms, with sitting area, including wet suit pick up and drop off use. Proposed service area with bin storage and staff pedestrian ramp access and turning area for vehicles  | Permission Granted – 18/07/2019 |
| LA05/2018/1266/A      | Pair of single sided post mounted side identification signs for main entrance to site on Mealough Road. Internal facility identification signage in 3D individual lettering identifying glamping site location. Pair of single sided post mounted side identification signage at traffic light junction of Saintfield Road/Manse Road/Mealough Road  | Consent Granted – 09/07/2019    |
| LA05/2019/0085/F      | Retention of floating house boat for short stay guest accommodation on Knockbracken reservoir  | Permission Granted – 04/10/2019 |
| LA05/2019/0160/F      | Aqua park landscape works: Beach, 12 Beach Huts, Jetty and Lido  | Permission Granted – 18/07/2019 |

| Application Reference | Proposal  | Decision                        |
|-----------------------|---|---------------------------------|
| LA05/2019/0221/F      | Proposed change of use of existing clubhouse/ reception café with staff accommodation to create new restaurant with ancillary utility laundry and storage buildings to facilitate proposal. Proposed Tepee structure to form additional covered dining space to rear with satellite kitchen | Permission Granted – 07/10/2019 |
| LA05/2019/0161/F      | Sheltered reception for aqua park and small ancillary children's play park  | Permission Granted – 27/07/2020 |
| LA05/2019/1113/F      | Dispersed washroom facilities and relocation of glamping pod (retrospective)  | Permission Granted – 21/10/2020 |
| LA05/2019/1114/F      | Retrospective application for the retention of storage shed   | Permission Granted – 21/10/2020 |
| LA05/2019/1313/F      | Proposed side extension to existing restaurant with associated external seating and covered seating. Proposed W.C. and shower buildings (retrospective) and 4no. Barbeque Huts (retrospective)  | Permission Granted – 21/10/2020 |
| LA05/2019/0997/F      | Retrospective application for the retention of bridge over Carryduff river for general access to land divided by the presence of the river  | Permission Granted – 13/04/2021 |
| LA05/2021/1352/F      | Provision of new site access including right hand turn lane and all other associated work   | Pending                         |

## Consultations

15. The following consultations were carried out:

| Consultee                 | Response                          |
|---------------------------|-----------------------------------|
| DfI Roads                 | No Objection                      |
| LCCC Environmental Health | No Objection                      |
| NI Water                  | Objection due to capacity issues. |
| Water Management Unit     | No Objection                      |
| Natural Heritage          | No Objection                      |
| HED Historic Monuments    | No Objection                      |
| DfI River Agency          | No Objection                      |

## Representations

16. One representation is received in opposition to the proposal.

In summary, the following issues are raised:

- Overlooking from one of the structure within the development into residential properties on the Saintfield Road.

17. The issues raised in the representation in respect of amenity are considered as part of the assessment of this application and described in more detail below.

## Planning Policy Context

### Relevant Policy and Guidance Documents

18. The relevant planning policy context which relates to the application is as follows:

- Regional Development Strategy 2035
- Carryduff Local Plan
- Draft Belfast Metropolitan Area Plan 2015 (BMAP 2015),
- Strategic Planning Policy for Northern Ireland (SPPS): Planning for Sustainable Development
- Planning Policy Statement 2 (PPS 2) : Natural Heritage
- Planning Policy Statement 3 (PPS 3): Access, Movement and Parking
- Planning Policy Statement 6 (PPS 6): Planning, Archaeology and the Built Heritage
- Planning Policy Statement 8 (PPS 8): Open Space, Sport and Outdoor Recreation
- Planning Policy Statement 15 (PPS 15): Planning and Flood Risk
- Planning Policy Statement 16 (PPS 16): Tourism
- Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside.

19. The relevant guidance is:

- Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside
- Development Control Advice Note 15 - Vehicular Access Standards Creating Places
- Appendix 4 of PPS 16 - Landscape design considerations for Holiday Parks
- Best Practice Guidance to PPS 18 - Renewable Energy

## Environmental Impact Assessment (EIA)

20. The thresholds set out in the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 have been considered as part of this assessment as the site area exceeds the thresholds set out in Section 10 (b) of Schedule 2, of the Planning Environmental Impact Assessment (NI) Regulations 2015.
21. An EIA determination was carried out and it was concluded that there was not likely to be any unacceptable adverse environmental impacts created by the proposed development and as such, an Environmental Statement was not required to inform the assessment of the application.

## Pre-Community Consultation

22. The application exceeds the threshold for major developments as set out in the Planning (Development Management) Regulations (Northern Ireland) 2015 in that the site size is more than two-hectares.
23. On this basis the applicant was required to engage in pre-application community consultation (PACC).
24. A Pre-Application Community Consultation report [dated March 2022] submitted in support of the application provides a record of the consultation that had taken place to inform interested parties of the details of the proposed development.
25. The format of the report is in accordance with the Practice Note published by DfI Planning Group and contains the relevant information required. It advises that all feedback received during the consultation period has been recorded and considered as part of the evolution of the design of the proposed scheme.
26. The following issues were raised through the PACC process:
  - Traffic.
  - Height of Cable Hub.
  - Structure of Sand Sports Arena.
  - Positive feedback regarding the old reservoir being put to good use.

## Local Development Plan

27. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on Planning applications regard must be had to the requirements of the local development plan and that the determination of applications must be in accordance with the plan unless material considerations indicate otherwise.
28. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan 2015 had in its entirety not been lawfully adopted.



29. As a consequence of this decision, the Carryduff Local Plan 1993 is now the statutory development plan for the area and the site is located outside the settlement limit for Carryduff and in the open countryside. There are no site specific designations or policies in the Plan that apply to this site
30. The Belfast Metropolitan Area Plan (Draft) 2015 and its policy considerations remain a material consideration in the assessment of applications.
31. Policy ENV 3 as set out in Part 3, Volume 1 of draft BMAP relates to Local Landscape Policy Areas [LLPAs]. This policy states that

*In designated Local Landscape Policy Areas [LLPAs], planning permission will not be granted for development that would be liable to adversely affect those features, or combination of features, that contribute to environmental quality, integrity or character.*

*Where riverbanks are included within LLPAs, planning permission will only be granted where access is provided to the river corridor as part of the development proposals.*

*Where proposals are within and/or adjoining a designated LLPA, a landscape buffer may be required to protect the environmental quality of the LLPA.*

32. In respect of draft BMAP, page 16 states that

*Planning Policy Statements (PPSs) set out the policies of the Department on particular aspects of land use planning and apply to the whole of Northern Ireland. Their contents have informed the Plan preparation and the Plan Proposals. They are material to decisions on individual planning applications (and appeals) within the Plan Area.*

*In addition to the existing and emerging suite of PPSs, the Department is undertaking a comprehensive consolidation and review of planning policy in order to produce a single strategic planning policy statement (SPPS) which will reflect a new approach to the preparation of regional planning policy. The preparation of the SPPS will result in a more strategic, simpler and shorter statement of planning policy in time for the transfer of planning powers to Councils. Good practice guides and supplementary planning guidance may also be issued to illustrate how concepts contained in PPSs can best be implemented.*

### **Regional Policy Context**

33. The Strategic Planning Policy Statement (SPPS) published in September 2015 states that

*until the Council adopts the Plan Strategy for its new Local Development Plan there will be a transitional period in operation.*

34. The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.
35. During this period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.
36. Paragraph 1.2 of the SPPS states that
- where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies this should not be judged to lessen the weight to be afforded by the retained policy.*
37. Paragraph 3.8 of the SPPS states
- that 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.*
38. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.
39. Paragraph 4.12 of the SPPS states
- that other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.*
40. It also advises that adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.
41. Paragraph 6.65 states that
- the aim of the SPPS with regard to the countryside is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development, while supporting and sustaining rural communities consistent with the RDS.*
42. Paragraph 6.70 also states that

all development in the countryside must integrate into its setting, respect the character, and be appropriately designed.

43. Paragraph 6.78 of the SPSS states that

*Supplementary planning guidance contained within 'Building on Tradition': A Sustainable Design Guide for the Northern Ireland Countryside' must be taken into account in assessing all development proposals in the countryside.*

44. Paragraph 6.81 of the SPSS states that

*The planning system has a key role in achieving a vibrant economy. In this regard, the aim of the SPSS is to facilitate the economic development needs of Northern Ireland in ways consistent with the protection of the environment and the principles of sustainable development.*

45. Paragraph 6.199 states that

*The Government recognises that open space, sport and outdoor recreation is important to society now and in the future. It supports many cultural, social, economic, health and environmental benefits. Everyone, particularly children, older people and people with disabilities should have easy access to open space and the opportunity to participate in sport and outdoor recreational activity or simply enjoy and have contact with nature.*

46. The proposal seeks further outdoor sport, recreation and tourism development on a rural site beyond any defined settlement limit and as such assessment is made against the provisions contained within Planning Policy Statement 21 (PPS21), Sustainable Development in the Countryside.

### **Sustainable Development in the Countryside**

47. PPS 21 – Sustainable Development in the Countryside sets out the planning policies for development in the countryside

48. Paragraph 3.1 of PPS 21 states that

*The aim of PPS 21 is to manage development in the countryside:*

- *in a manner consistent with achieving the strategic objectives of the Regional Development Strategy for Northern Ireland 2025; and*
- *in a manner which strikes a balance between the need to protect the countryside from unnecessary or inappropriate development, while supporting rural communities.*

49. Paragraph 3.2 of PPS 21 states that

*The objectives of PPS 21 are:*

- *to manage growth in the countryside to achieve appropriate and sustainable patterns of development that meet the essential needs of a vibrant rural community;*
- *to conserve the landscape and natural resources of the rural area and to protect it from excessive, inappropriate or obtrusive development and from the actual or potential effects of pollution;*
- *to facilitate development necessary to achieve a sustainable rural economy; including appropriate farm diversification and other economic activity; and*
- *to promote high standards in the design, siting and landscaping of development in the countryside.*

50. Policy CTY1 – Development in the Countryside states that

*there are a range of other types of non-residential development that may be acceptable in the countryside and that will contribute to the aims of sustainable development.*

51. It also states

*Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.*

*All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department's published guidance*

52. In terms of Non Residential Development, the policy states that

*Planning permission will be granted for non-residential development in the countryside in the following cases:*

- *farm diversification proposals in accordance with Policy CTY 11;*
- *agricultural and forestry development in accordance with Policy CTY 12;*
- *the reuse of an existing building in accordance with Policy CTY 4;*
- *tourism development in accordance with the TOU Policies of PSRNI;*
- *industry and business uses in accordance with PPS 4 (currently under review);*
- *minerals development in accordance with the MIN Policies of PSRNI;*
- *outdoor sport and recreational uses in accordance with PPS 8;*
- *renewable energy projects in accordance with PPS 18; or*
- *a necessary community facility to serve the local rural population.*

#### Integration and Design of Buildings

53. Policy CTY 13 - Integration and Design of Buildings in the Countryside states

*that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.*

54. The policy states that

*a new building will be unacceptable where:*

- (a) it is a prominent feature in the landscape; or*
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
- (c) it relies primarily on the use of new landscaping for integration; or*
- (d) ancillary works do not integrate with their surroundings; or*
- (e) the design of the building is inappropriate for the site and its locality; or*
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

#### Rural Character

55. Policy CTY 14 - Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

56. This policy context refers to a single dwelling in the countryside and it states that a new building will be unacceptable where

- (a) it is unduly prominent in the landscape; or*
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or*
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or*
- (d) it creates or adds to a ribbon of development (see Policy CTY 8); or*
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.*

#### **Open Space, Sport and Outdoor Recreation**

57. PPS 8 – Open Space, Sport and Outdoor Recreation sets out the planning policies for the protection of open space, the provision of new areas of open space in association with residential development and the use of land for sport and outdoor recreation.

58. Policy recognises that open space is essential in any community for both amenity and recreation purposes and often contributes positively to the character, attractiveness and vitality of our cities, towns and villages.
59. Paragraph 3.1 of PPS 8 states that

The main objectives of this Planning Policy Statement are:

- *to safeguard existing open space and sites identified for future such provision;*
- *to ensure that areas of open space are provided as an integral part of new residential development and that appropriate arrangements are made for their management and maintenance in perpetuity;*
- *to facilitate appropriate outdoor recreational activities in the countryside;*
- *to ensure that new open space areas and sporting facilities are convenient and accessible for all sections of society, particularly children, the elderly and those with disabilities;*
- *to achieve high standards of siting, design and landscaping for all new open space areas and sporting facilities; and*
- *to ensure that the provision of new open space areas and sporting facilities is in keeping with the principles of environmental conservation and helps sustain and enhance biodiversity.*

#### Protection of Open Space

60. Policy OS1 – Protection of Open Space states that

*The Department will not permit development that would result in the loss of existing open space or land zoned for the provision of open space. The presumption against the loss of existing open space will apply irrespective of its physical condition and appearance.*

*An exception will be permitted where it is clearly shown that redevelopment will bring substantial community benefits that decisively outweigh the loss of the open space.*

*An exception will also be permitted where it is demonstrated that the loss of open space will have no significant detrimental impact on the amenity, character or biodiversity of an area and where either of the following circumstances occur:*

- (i) *in the case of an area of open space of 2 hectares or less, alternative provision is made by the developer which is at least as accessible to current users and at least equivalent in terms of size, usefulness, attractiveness, safety and quality; or*
- (ii) *in the case of playing fields and sports pitches within settlement limits, it is demonstrated by the developer that the retention and enhancement of the facility can only be achieved by the development of a small part of the existing space - limited to a maximum of 10% of the overall area - and this*

*will have no adverse effect on the sporting potential of the facility. This exception will be exercised only once.*

### Outdoor Recreation in the Countryside

61. Policy OS 3 - Outdoor Recreation in the Countryside states that

*The Department will permit the development of proposals for outdoor recreational use in the countryside where all the following criteria are met:*

- (i) there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;*
- (ii) there is no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities;*
- (iii) there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography;*
- (iv) there is no unacceptable impact on the amenities of people living nearby;*
- (v) public safety is not prejudiced and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities proposed;*
- (vi) any ancillary buildings or structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;*
- (vii) the proposed facility takes into account the needs of people with disabilities and is, as far as possible, accessible by means of transport other than the private car; and*
- (viii) the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access, parking, drainage and waste disposal.*

62. Appendix 4 of PPS 16 provides guidance on landscape design considerations for Holiday Parks. It identifies matters which need to be addressed in preparing a layout/landscape plan as follows

- 1. The creation of an appropriate link with the surrounding landscape (eg a dense tree belt may be appropriate in a heavily treed part of the countryside, but in an open landscape may draw attention to the development rather than allowing it to blend into the surrounding countryside).*
- 2. Appropriate boundary treatment, taking account of point 1 above and reflecting needs for shelter, screening and privacy. Buffer zones of at least 3 metres in width should be retained and kept free of development on the inside of all boundaries.*
- 3. Informal layout of caravan units / motor homes / chalets characterised by the use small informal clusters separated by appropriate landscaping and the avoidance of 'regimented' rows of units that typically results in a detrimental visual impact ( a 'sea' of caravans effect).*

4. *The avoidance of long straight lines for roads and paths with due regard to the protection of key views from the holiday park. An exception to this may arise where an avenue is an appropriate design element.*
5. *Integration of ancillary buildings, hard landscaping and facilities such as car parks and water points by reflecting local design characteristics, the use of local materials and appropriate planting. The use of muted colours (usually green tones) for caravan units / chalets may be appropriate particularly for those close to site boundaries.*
6. *The use of permeable surfaces for caravan pitches, hard landscaped areas and car parking in order to safeguard against flood risk through surface water run-off.*
7. *Appropriate planning and selection of planting taking account of function, suitability for prevailing soil and climatic conditions (eg coastal environments), durability, seasonal changes and ease of maintenance. Planting will be required for a variety of functions including:*
  - *linking the holiday park into its wider landscape setting,*
  - *enhancing the visual character of the development and promoting a distinctive sense of place,*
  - *boundary treatment and screening,*
  - *creating visual diversity in the layout,*
  - *integrating public and private open spaces into the design of the holiday park,*
  - *softening the visual impact of accommodation units and ancillary buildings and facilities,*
  - *adding definition and interest to accesses, particularly footpaths and cycle tracks.*
8. *Retention and enhancement of existing natural features such as ponds, copses of trees and hedgerows. This may also apply in some instances to archaeology and features of the built heritage.*
9. *The provision of communal open space should be considered as an integral part of the design in order to:*
  - *meet formal and informal recreation and amenity open space needs,*
  - *contribute to the attractiveness of the development,*
  - *create a safe, convenient and accessible space for all holiday park users, particularly children, the elderly and people with disabilities,*
  - *reduce the need for people to seek open space outside the park,*
  - *enhance security through providing opportunity for onsite activity.*

*Reliance on the use of residual areas of unused land for open space provision will not be acceptable.*

63. Policy OS 6 – Development ancillary to water Sports states that

*The Department will permit the development of facilities ancillary to water sports adjacent to inland lakes, reservoirs and waterways where all the following criteria are met:*

- (i) *it is compatible with any existing use of the water, including non-recreational uses;*



- (ii) *there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;*
- (iii) *there is no adverse impact on visual amenity or the character of the local landscape;*
- (iv) *it will not result in water pollution or an unacceptable level of noise or disturbance;*
- (v) *buildings or structures are designed to a high standard, are of a scale appropriate to the local area or townscape and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;*
- (vi) *the proposed facility takes into account the needs of people with disabilities; and*
- (vii) *there is no conflict with the provisions of any local management plan.*

### **Tourism**

64. PPS 16 – Tourism sets out planning policies for tourism development and also for safeguarding of tourism assets.

65. Paragraph 3.0 of PPS 16 states that

*The aim of this Planning Policy Statement (PPS) is to manage the provision of sustainable and high quality tourism developments in appropriate locations within the built and natural environment.*

66. Paragraph 3.1 of PPS 16 states that

*The objectives of this Planning Policy Statement are to:*

- *facilitate sustainable tourism development in an environmentally sensitive manner;*
- *contribute to the growth of the regional economy by facilitating tourism growth;*
- *safeguard tourism assets from inappropriate development ;*
- *utilise and develop the tourism potential of settlements by facilitating tourism development of an appropriate nature, location and scale;*
- *sustain a vibrant rural community by supporting tourism development of an appropriate nature, location and scale in rural areas ;*
- *ensure a high standard of quality and design for all tourism development.*

### **Tourist Amenities in the Countryside**

67. Policy TSM 2 - Tourist Amenities in the Countryside states that

*a proposal for the extension of an existing tourist amenity will be permitted where the scale and nature of the proposal does not harm the rural character, landscape quality or environmental integrity of the local area.*

*Where possible, such proposals will be expected to be accommodated through the conversion, reuse or extension of existing buildings on site, unless it can be demonstrated that this is not a feasible option. In circumstances where the*

*planning authority accepts a new or replacement building it should be sited and designed so as to integrate with the overall development.*

*Any conversion, extension or new building should respect the scale, design and materials of the original building(s) on the site and any historic or architectural interest they may have.*

68. Paragraph 7.5 of the justification and amplification to Policy TSM 2 states that a *tourism amenity is defined by the Tourism (NI) Order 1992 as an amenity, facility or service provided primarily for tourists but does not include tourist accommodation.*

#### Self Catering Accommodation in the Countryside

69. Policy TSM 5 - Self Catering Accommodation in the Countryside states that

*planning approval will be granted for self-catering units of tourist accommodation in the following circumstances:*

- (a) *one or more new units all located within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park;*
- (b) *a cluster of 3 or more units are to be provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right;*
- (c) *the restoration of an existing clachan or close, through conversion and / or replacement of existing buildings, subject to the retention of the original scale and proportions of the buildings and sympathetic treatment of boundaries. Where practicable original materials and finishes should be included.*

70. It also states that

*in either circumstances (a) or (b), self-catering development is required to be subsidiary in scale and ancillary to the primary tourism use of the site.*

*Where a cluster of self catering units is proposed in conjunction with a proposed or approved hotel, self catering complex, guest house or holiday park and / or tourist amenity, a condition will be attached to the permission preventing occupation of the units before the primary tourism use is provided and fully operational.*

*All permissions for self catering accommodation will include a condition requiring the units to be used for holiday letting accommodation only and not for permanent residential accommodation.*

*The overall design of the self catering scheme, including layout, the provision of amenity open space and the size and detailed design of individual units, must deter permanent residential use. To this end, permitted development rights in respect of plot boundaries will also be removed.*

71. Paragraph 7.25 of the justification and amplification to Policy TSM 5 states that *where units are proposed in association with an existing tourism amenity, the tourist amenity must be a significant visitor attraction in its own right.*

New and Extended Holiday Parks in the Countryside

72. Policy TSM 6 - New and Extended Holiday Parks in the Countryside states *that planning permission will be granted for a new holiday park or an extension to an existing facility where it is demonstrated that the proposal will create a high quality and sustainable form of tourism development.*

*The location, siting, size, design, layout and landscaping of the holiday park proposal must be based on an overall design concept that respects the surrounding landscape, rural character and site context.*

*Proposals for holiday park development must be accompanied by a layout and landscaping plan (see guidance at Appendix 4) and will be subject to the following specific criteria:*

- (a) The site is located in an area that has the capacity to absorb the holiday park development, without adverse impact on visual amenity and rural character;*
- (b) Effective integration into the landscape must be secured primarily through the utilisation of existing natural or built features. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist its integration with the surrounding area;*
- (c) Adequate provision (normally around 15% of the site area) is made for communal open space (including play and recreation areas and landscaped areas), as an integral part of the development;*
- (d) The layout of caravan pitches / motor homes is informal and characterised by discrete groupings or clusters of units separated through the use of appropriate soft landscaping;*
- (e) The design of the development, including the design and scale of ancillary buildings and the design of other elements including internal roads, paths, car parking areas, walls and fences, is appropriate for the site and the locality, respecting the best local traditions of form, materials and detailing;*
- (f) Environmental assets including features of the archaeological and built heritage, natural habitats, trees and landscape features are identified and, where appropriate, retained and integrated in a suitable manner into the overall design and layout;*
- (g) Mains water supply and sewerage services must be utilised where available and practicable.*

Criteria for Tourism Development

73. Policy TSM 7 - Criteria for Tourism Development sets out other design and general criteria applicable to all proposals for tourism use. It states that

*A proposal for a tourism use, in addition to the other policy provisions of this Statement, will be subject to the following design criteria: Design Criteria*

- (a) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport;*
- (b) the site layout, building design, associated infrastructure and landscaping arrangements (including flood lighting) are of high quality in accordance with the Department's published guidance and assist the promotion of sustainability and biodiversity;*
- (c) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are screened from public view;*
- (d) utilisation of sustainable drainage systems where feasible and practicable to ensure that surface water run-off is managed in a sustainable way;*
- (e) is designed to deter crime and promote personal safety;*
- (f) development involving public art, where it is linked to a tourism development, needs to be of high quality, to complement the design of associated buildings and to respect the surrounding site context. In addition to the above design criteria, a proposal will also be subject to the following general criteria (g – o).*

#### General Criteria

- (g) it is compatible with surrounding land uses and neither the use or built form will detract from the landscape quality and character of the surrounding area;*
- (h) it does not harm the amenities of nearby residents;*
- (i) it does not adversely affect features of the natural or built heritage;*
- (j) it is capable of dealing with any emission or effluent in accordance with legislative requirements. The safeguarding of water quality through adequate means of sewage disposal is of particular importance and accordingly mains sewerage and water supply services must be utilised where available and practicable;*
- (k) access arrangements must be in accordance with the Department's published guidance;*
- (l) access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic;*
- (m) the existing road network can safely handle any extra vehicular traffic the proposal will generate; 31*
- (n) access onto a protected route for a tourism development in the countryside is in accordance with the amendment to Policy AMP 3 of PPS 3, as set out in Annex 1 of PPS 21.*
- (o) it does not extinguish or significantly constrain an existing or planned public access to the coastline or a tourism asset, unless a suitable alternative is provided;*

#### **Renewable Energy**

74. Planning Policy Statement 18 – Renewable Energy sets out the Department's planning policy for development that generates energy from renewable

resources and that requires the submission of a planning application. In addition the PPS encourages the integration of renewable energy technology and greater application of the principles of Passive Solar Design in the design, siting and layout of new development.

75. Paragraph 3.1 of PPS 18 states that

*The aim of this Statement is to facilitate the siting of renewable energy generating facilities in appropriate locations within the built and natural environment in order to achieve Northern Ireland's renewable energy targets and to realise the benefits of renewable energy.*

76. Paragraph 3.2 states that

*The objectives of the Statement are:*

- *to ensure that the environmental, landscape, visual and amenity impacts associated with or arising from renewable energy development are adequately addressed;*
- *to ensure adequate protection of the Region's built and natural, and cultural heritage features; and*
- *to facilitate the integration of renewable energy technology into the design, siting and layout of new development and promote greater application of the principles of Passive Solar Design.*

77. Best Practice Guidance to PPS 18 – Renewable Energy provides background information on the various renewable energy technologies that may come forward in Northern Ireland and is designed to contribute to the development management process. It has been drawn up taking account of similar material available for other parts of the UK and the Republic of Ireland.

78. Paragraph 6.2.1 – 6.2.10 provides guidance on Photovoltaic (PV) systems.

### **Access, Movement and Parking**

79. PPS 3 – Access, Movement and Parking sets out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.

80. Paragraph 3.1 of PPS 3 states that

*The main objectives of this Statement are to:*

- *promote road safety, in particular, for pedestrians, cyclists and other vulnerable road users;*
- *restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes;*
- *make efficient use of road space within the context of promoting modal shift to more sustainable forms of transport;*

- *ensure that new development offers a realistic choice of access by walking, cycling and public transport, recognising that this may be less achievable in some rural areas;*
- *ensure the needs of people with disabilities and others whose mobility is impaired, are taken into account in relation to accessibility to buildings and parking provision;*
- *promote the provision of adequate facilities for cyclists in new development; promote parking policies that will assist in reducing reliance on the private car and help tackle growing congestion; and*
- *protect routes required for new transport schemes including disused transport routes with potential for future reuse.*

### Creating an Accessible Environment

81. Policy AMP 1 – Creating an Accessible Environment states that

*The Department's aim is to create a more accessible environment for everyone. Accordingly developers should take account of the specific needs of people with disabilities and others whose mobility is impaired in the design of new development. Where appropriate, the external layout of development will be required to incorporate all or some of the following:*

- *facilities to aid accessibility e.g. provision of dropped kerbs and tactile paving etc, together with the removal of any unnecessary obstructions;*
- *convenient movement along pathways and an unhindered approach to buildings;*
- *pedestrian priority to facilitate pedestrian movement within and between land uses; and*
- *ease of access to reserved car parking, public transport facilities and taxi ranks.*

*The development of a new building open to the public, or to be used for employment or education purposes, will only be permitted where it is designed to provide suitable access for all, whether as customers, visitors or employees. In such cases the Department will operate a presumption in favour of a level approach from the boundary of the site to the building entrance and the use of steps, ramps or mechanical aids will only be permitted where it is demonstrated that these are necessary.*

*The Department will also seek to ensure that access to existing buildings and their surroundings is improved as opportunities arise through alterations, extensions and changes of use.*

*The Department may require the submission of an Access Statement to accompany development proposals.*

### Access to Public Roads

82. Policy AMP 2 - Access to Public Roads states that

*planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:*

- a) *such access will not prejudice road safety or significantly inconvenience the flow of traffic; and*
- b) *the proposal does not conflict with Policy AMP 3 Access to Protected Routes.*

83. The policy also states that

*The acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Departments published guidance. Consideration will also be given to the following factors:*

- *the nature and scale of the development;*
- *the character of existing development;*
- *the contribution of the proposal to the creation of a quality environment, including the potential for urban / village regeneration and environmental improvement;*
- *the location and number of existing accesses; and*
- *the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.*

#### Car Parking and Servicing Arrangements

84. Policy AMP 7 - Car Parking and Servicing Arrangements states that

*Development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic.*

*Beyond areas of parking restraint identified in a development plan, a reduced level of car parking provision may be acceptable in the following circumstances:*

- *where, through a Transport Assessment, it forms part of a package of measures to promote alternative transport modes; or*
- *where the development is in a highly accessible location well served by public transport; or*
- *where the development would benefit from spare capacity available in nearby public car parks or adjacent on street car parking; or*
- *where shared car parking is a viable option; or*
- *where the exercise of flexibility would assist in the conservation of the built or natural heritage, would aid rural regeneration, facilitate a better quality of development or the beneficial re-use of an existing building.*

Proposals involving car parking in excess of the Department's published standards or which exceed a reduction provided for in a development plan will only be permitted in exceptional circumstances.

In assessing car parking provision the Department will require that a proportion of the spaces to be provided are reserved for people with disabilities in accordance with best practice. Where a reduced level of car parking provision is applied or accepted, this will not normally apply to the number of reserved spaces to be provided.

### **Archaeology and Built Heritage**

85. PPS 6 – Planning Archaeology and Built Heritage makes provision for the protection of our archaeology and built heritage.

#### The Protection of Archaeological Remains of Local Importance and their Settings

86. Policy BH 2 - The Protection of Archaeological Remains of Local Importance and their Settings states

*Development proposals which would adversely affect archaeological sites or monuments which are of local importance or their settings will only be permitted where the Department considers the importance of the proposed development or other material considerations outweigh the value of the remains in question.*

### **Natural Heritage**

87. PPS 2 - Natural Heritage makes provision for ensuring that development does not harm or have a negative impact on any natural heritage or conservation.
88. Paragraph 3.1 of PPS 2 states

*The objectives of this Planning Policy Statement are:*

- *to seek to further the conservation, enhancement and restoration of the abundance, quality, diversity and distinctiveness of the region's natural heritage;*
- *to further sustainable development by ensuring that biological and geological diversity are conserved and enhanced as an integral part of social, economic and environmental development;*
- *to assist in meeting international (including European), national and local responsibilities and obligations in the protection and enhancement of the natural heritage;*
- *to contribute to rural renewal and urban regeneration by ensuring developments take account of the role and value of biodiversity in supporting economic diversification and contributing to a high quality environment;*
- *to protect and enhance biodiversity, geodiversity and the environment;*  
*and*



- *to take actions to reduce our carbon footprint and facilitate adaptation to climate change.*

#### Species Protected by Law

89. With regard to European Protected species, Policy NH 2 states that

*Planning permission will only be granted for a development proposal that is not likely to harm a European protected species. In exceptional circumstances a development proposal that is likely to harm these species may only be permitted where:-*

- *there are no alternative solutions; and*
- *it is required for imperative reasons of overriding public interest; and*
- *there is no detriment to the maintenance of the population of the species at a favourable conservation status; and*
- *compensatory measures are agreed and fully secured.*

90. With regard to National Protected Species, Policy NH 2 states

*Planning permission will only be granted for a development proposal that is not likely to harm any other statutorily protected species and which can be adequately mitigated or compensated against.*

*Development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.*

#### Sites of Nature Conservation Importance – Local

91. Policy NH 4 - Sites of Nature Conservation Importance – Local states that

*Planning permission will only be granted for a development proposal that is not likely to have a significant adverse impact on:*

- *a Local Nature Reserve; or*
- *a Wildlife Refuge.*

*A development proposal which could have a significant adverse impact on a site of local importance may only be permitted where the benefits of the proposed development outweigh the value of the site.*

*In such cases, appropriate mitigation and/or compensatory measures will be required.*

#### **Planning and Flooding Risk**

92. PPS 15 – Planning and Flood Risk sets out policy to minimise and manage flood risk to people, property and the environment. The susceptibility of all land

to flooding is a material consideration in the determination of planning applications.

93. Policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains states that

*Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP7 of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy.*

94. Policy FLD 2 – Protection of Flood Defence and Drainage Infrastructure states that

*the planning authority will not permit development that would impede the operational effectiveness of flood defence and drainage infrastructure or hinder access to enable their maintenance.*

95. Policy FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states that

*A Drainage Assessment will be required for all development proposals that exceed any of the following thresholds:*

- *A residential development comprising of 10 or more dwelling units*
- *A development site in excess of 1 hectare*
- *A change of use involving new buildings and / or hardsurfacing exceeding 1000 square metres in area.*

*A Drainage Assessment will also be required for any development proposal, except for minor development, where:*

- *The proposed development is located in an area where there is evidence of a history of surface water flooding.*
- *Surface water run-off from the development may adversely impact upon other development or features of importance to nature conservation, archaeology or the built heritage.*

*Such development will be permitted where it is demonstrated through the Drainage Assessment that adequate measures will be put in place so as to effectively mitigate the flood risk to the proposed development and from the development elsewhere.*

*Where a Drainage Assessment is not required but there is potential for surface water flooding as indicated by the surface water layer of the Strategic Flood Map, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.*

*Where the proposed development is also located within a fluvial or coastal plan, then Policy FLD 1 will take precedence.*

## Assessment

96. Within the context of the planning policy tests outlined above, the following assessment is made relative to this particular application.

### Sustainable Development in the Countryside

97. Within the Carryduff Local Plan 1993 the site is outside the settlement limit of Carryduff and within the open countryside.
98. Within draft BMAP the site also lies within the countryside with the settlement development limit of Carryduff runs along the southern, eastern and northern boundaries of the site.
99. The majority of the works involve the creation of a glamping site to the north of the approved waterpark which is referred to as "Happy Valley". This area provides a range of guest accommodation types, all of which are single storey. It includes six domes, four bell tents, four Viking Cabins, two Safari tents and four Igloo huts. There is also a tent camping area located at this part of the site. Five new river house boats are proposed on the northern portion of the reservoir adjacent to the Happy Valley area.
100. Former existing dwellings, now known as a river house and cottage house, are being reused for accommodation purposes. These buildings are located on the northern part of the site close to another area of glamping accommodation.
101. Within other areas of the site there are camping areas and caravan hook up points which require approval along with twenty open meadow glamping pods which overlook the reservoir activity area and which have previously been approved.
102. Other built development within the wider site that requires retrospective planning permission includes, car parking, café building, two common rooms, reception building, sand sports area ,reconfiguration of sea container café/restaurant, caravan BBQ Gazebo / fire pits, hook up points, BBQ Club House, and numerous ancillary storage areas located throughout the site.
103. The detail of the various elements fall to be assessed against the policy tests associated with PPS 8 – Open Space, Sport and Outdoor Recreation and PPS 16 – Tourism.

### Open Space, Sport and Outdoor Recreation

104. The proposal involves the extension of existing and approved recreational water park facility

### Outdoor Recreation in the Countryside / Development of facilities ancillary to Water Sports

105. Policy OS 3 - Outdoor Recreation in the Countryside states development of proposals for outdoor recreational use in the countryside will be permitted where the following criteria met:

**(i) There is no adverse impact on features of importance to nature conservation, archaeology or built heritage;**

106. A Rath exists on the site located near the entrance to the site. An Archaeological Impact Assessment (AIA) was submitted with the application. It concluded that two of the proposed units located to the north of the site could have an impact on potential surviving sub surface archaeological remains.

107. HED Historic Monuments where consulted in relation to the proposal and agreed with the findings of the AIA. They stated that

*“The AIA may form the basis for an archaeological programme of works in relation to proposed accommodation units M and N within Area P-24. However, HED (Historic Monuments) has some concerns about the proximity of the proposed water slides in Area P-31 to the monument (DOW009:030) and would require any programme of works to include appropriate mitigation measures for this area.”*

108. HED concluded by stating 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”*

109. The advice is consider and the Council has no reason to disagree with the recommendation offered and that the requirements of criteria (i) is met.

**(ii) There is no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities;**

110. The proposal did not involve the loss of prime agricultural land and it does not present any unacceptable impact on nearby agricultural activities. The requirement of criteria (ii) is met.

**(iii) There is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography;**

111. From a visual perspective, the proposal has limited public viewpoints. A two-metre high wall bounds the site to east along the Saintfield Road which screens the site and location of development on different levels of within break up the developed appearance of the land. The existing tree cover along this boundary also provides an additional layer of screening.

105. Taking these factors into account, it is considered that the proposed development can easily be absorbed into the existing landscape without harm to the rural character of the area. The requirement of criteria (iii) is met.

**(iv) There is no unacceptable impact on the amenities of people living nearby;**

106. The nearest neighbouring residential property to the proposal located on the far side of the Sainfield Road. There is limited development on the eastern boundary of the site which is closest to these residential properties.

107. The Councils Environmental Health Unit have considered the detail of the application in terms of noise, nuisance and disturbance and they have raised no objections.

108. Consideration is also given to the general amenity impacts of the development. Most of the recreation activities are carried out on the water and set down below the level of the wall along the edge of the Saintfield Road. The accommodation is dispersed throughout the site and not so intensively used to give rise to significant noise nuisance.

109. Given the distance of separation to the closest dwellings and that there is a busy existing four lane road between the site and the dwellings the proposed development is not likely to give rise to a significant adverse impact to the amenity of local residents. The requirement of criteria (iv) is met.

**(v) Public safety is not prejudiced and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities proposed;**

110. This is an established outdoor recreation facility and tourism asset. The nature and scale of the additional use is considered to be compatible with and ancillary to the established use.

111. Public safety is not prejudiced by this development which is mainly on the water during daylight hours and carried out seasonally. The uses are compatible with a countryside location, The requirements of criteria (v) are met.

**(vi) Any ancillary buildings or structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;**

The structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment for the following reasons

112. Existing buildings are reused and sympathetically converted. The tents and pods have been sympathetically constructed of natural materials to allow them to blend in unobtrusively within the landscape. Additional planting is proposed that that will add to the overall quality of the outdoor spaces over time and any ancillary built development is carried out to a high standard. The requirement of criteria (vi) is met.

**(vii) The proposed facility takes into account the needs of people with disabilities and is, as far as possible, accessible by means of transport other than the private car; and**

113. The scheme provides access to people with disabilities and includes accessible parking and level access to buildings and other facilities within the site. The requirement of criteria (vii) is met.

**(viii) The road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access and parking.**

114. In terms of the road network considerations, the existing access at Mealongh Road is the only access to the site. The Mealongh Road has recently been upgraded as part of wider infrastructure improvement necessary to facilitate development currently under construction on lands adjacent to the site.
115. DfI Roads are consulted and no road safety or adverse traffic impacts are identified. This advice is accepted.
116. A further planning application has also been submitted that will provide for a right hand turning lane into the site. This proposal is currently under consideration but will provide a safer and more convenient access arrangement into the site. That application is considered in parallel with this proposal.

The proposed buildings and additional recreation and tourism facilities use the existing parking arrangements which are provided communally within the site. There is adequate parking given the mix of uses and seasonally nature of the activities. The proposed uses are linked to the established use and enhance visitor experience. They do not add to the parking requirements. Not all of the existing parking is used all the time and there is adequate overflow arrangements for major events.

#### Development of facilities ancillary to Water Sports

117. Policy OS 6 - Development of facilities ancillary to Water Sports states development of facilities ancillary to water sports adjacent to inland lakes,, reservoirs and waterways will be acceptable where the criteria outlined below are met.

**(i) It is compatible with any existing use of the water, including non-recreational uses;**

118. The overall site has approval as a water park with various associated activities including an aqua park, water polo pitches and wake boarding. It is considered that the proposal is an enhancement of the established. It also provides visitors variety and choice to avail of the facilities in overnight stays in the tourist accommodation. The requirement of criteria (i) is met.

**(ii) there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;**

119. This matter is already dealt with above. The requirement of criteria (ii) is met.

**(iii) there is no adverse impact on visual amenity or the character of the local landscape;**

120. This matter is already dealt with above. The requirement of criteria (ii) is met.

**(iv) it will not result in water pollution or an unacceptable level of noise or disturbance;**

121. The reservoir is impounded structure and not connected to the river other than by a sluice which is required for emergencies. Foul sewerage is to a main sewer and any storm water is dealt with as part of a discharge consent. NIEA Water management Unit and Environmental Health have been consulted with the application and neither has raised any concerns with regards to water pollution.

122. Based on detail associated with the application in terms of its location within the wider site, existing topography and vegetation and advice from Environmental Health, it is considered that the development not have an unacceptable impact on the amenities of people living nearby. The requirement of criteria (iv) is met.

**(v) buildings or structures are designed to a high standard, are of a scale appropriate to the local area or townscape and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;**

123. This matter is already dealt with above. The requirement of criteria (v) is met.

**(vi) the proposed facility takes into account the needs of people with disabilities; and**

124. This matter is already dealt with above. The requirement of criteria (vi) is met.

#### Tourism

125. Whilst Lets Go Hydro was primarily developed as a sport and recreation facility it has grown and is considered to be a visitor attraction and tourism amenity.

126. The proposal involves the extension of existing and approved recreational water park facilities, glamping accommodation and retention of other buildings and uses.

127. These uses and related facilities are linked to the water based recreation and leisure facilities that are part of the visitor attraction and it is considered that due to its location and design it would not harm the rural character, landscape quality or environmental integrity of the local area.
128. As detailed previously the majority of the works involve the creation of a glamping site to the north of the approved waterpark which is referred to as "Happy Valley". This area provides a range of guest accommodation including six domes, four bell tents, four Viking Cabins, two Safari tents, four Igloo huts, one silo grill hut, one river house and one river cottage.
129. There is no formal division of plots with walls or fences, however some of the accommodation units are enclosed accessed by decking and enclosed partially with rope boundaries. The self-catering units are not considered to be suitable for permanent residential use
130. Other built development located throughout the wider site that requires retrospective planning permission includes, car parking, building with café, two common rooms, reception building, sand sports area ,reconfiguration of sea container café/restaurant, caravan BBQ Gazebo / fire pits, hook up points, BBQ Club House, staff accommodation and numerous ancillary storage areas located throughout the site.

#### New and Extended Holiday Parks in the Countryside

131. Policy TSM 6 - New and Extended Holiday Parks in the Countryside states that planning permission will be granted for a new holiday park or an extension to an existing facility where it is demonstrated that the proposal will create a high quality and sustainable form of tourism development and the following criteria are met
- (a) The site is located in an area that has the capacity to absorb the holiday park development, without adverse impact on visual amenity and rural character:**
132. As explained above, it is considered that the proposal can easily be absorbed into the site without adverse impact on visual amenity/rural character.
133. There are no significant public views of the proposed site from the surrounding public viewpoints. The site has existing mature boundaries to aid with its integration and is further softened by its backdrop of the trees to the rear of the site.
- (b) Effective integration into the landscape must be secured primarily through utilisation of existing natural or built features. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist its integration with the surrounding area:**



134. The long established boundaries of the wider site will not be affected by the proposal. The serve to aid the effective integration of the units within the site.
135. To assist with the long term integration of the facilities into the landscape the agent has also indicted that more than 10,000 native trees have been planted on the site over the last 4 years.

**(c) Adequate provision (normally around 15% of the site area) is made for communal open space (including play and recreational areas and landscaped areas), as an integral part of the development:**

136. Detail submitted with the application demonstrates that communal open space in addition to the communal facilities within the wider site are provided in relation to each of the self-catering units.

**(d) The layout of the caravan pitches / motor homes is informal and characterised by discrete groupings or clusters of units separated through the use of appropriate soft landscaping:**

137. As demonstrated above, the layout of the glamping accommodation is informal with discrete groupings of units which respond to the existing contours and respect the character of the landscape..
138. With regards to the caravan pitches theses are discreetly laid out in small groups with the glamping accommodation nearby.
139. Additional landscaping is not considered to be required as there is an existing backdrop of existing trees and soft landscaping.

**(e) The design of the development, including the design and scale of ancillary buildings and the design of other elements including internal roads, paths, car parking areas, walls and fences, is appropriate for the site and its locality, respecting the best local traditions of form, materials and detailing:**

140. This matter is already dealt with above. The requirement of this criteria is met.

**(f) Environmental assets including features of the archaeological and built heritage, natural habitats, trees and landscape features are identified and, where appropriate, retained and integrated in a suitable manner into overall design and layout;**

141. This matter is already dealt with above. The requirement of criteria is met.

**(g) Mains water supply and sewerage services must be utilised where available and practicable.**

142. This matter is already dealt with above. The requirement of criteria is met.

### Tourism Development

143. Policy TSM 7 - Criteria for Tourism Development sets out other design and general criteria applicable to all proposals for tourism use.
144. With regard to design, and as demonstrated above, the proposal is considered to be acceptable in terms of design, layout and movement patterns and responds to its context.
145. In consideration of the balance of the general criteria g to o:
- (g) it is compatible with surrounding land uses and neither the use or built form will detract from the landscape quality and character of the surrounding area;**
146. The proposal is considered to be compatible with the surrounding land uses (sport and outdoor recreation) and the discreet and sustainable nature of the proposed built form does not detract from the landscape quality or character of the surrounding area.
147. The larger buildings including the restaurant, sea container café and changing marquee are located within the lower parts of the site and given the undulating topography of the site there are no or limited views of these buildings from the main Saintfield Road or Mealough Road.
- (h) it does not harm the amenities of nearby residents;**
148. This matter is already dealt with above. The requirement of this criteria is met.
- (i) it does not adversely affect features of the natural or built heritage;**
149. This matter is already dealt with above. The requirement of this criteria is met.
- (j) it is capable of dealing with any emission or effluent in accordance with legislative requirements. The safeguarding of water quality through adequate means of sewage disposal is of particular importance and accordingly mains sewerage and water supply services must be utilised where available and practicable;**
150. This matter is already dealt with above. The requirement of this criteria is met.
- (k-m) access arrangements, access to public road, and the existing road network.**
151. This matter is already dealt with above. The requirement of this criteria is met.

### PPS21

152. Turning then to the balance of the policy tests associated with PPS 21, the following assessment is made.

### Integration and Design of Buildings

153. As explained above, a number of buildings are proposed to be incorporated into the established facility
154. The nature and scale of these buildings are described earlier in the report within the context of PPS 16 considerations.
155. For the reasons outlined above, the buildings are considered to be of an appropriate design and scale to enable them to integrate into the countryside location without being prominent features in the landscape.
156. As detailed the majority of the proposed development is located in the northern portion of the site where there is a backdrop of existing vegetation and trees and public views of the proposal at this location would be limited.
157. The design of new buildings associated with the proposal including with the Viking tent, pontoon stand, house boats and staff accommodation are considered to be appropriate to the site and its locality. There are no views of these buildings and structures from the main road due to boundary treatments and vegetation.
158. Former existing dwellings, now known as a river house and cottage house, are being reused for accommodation purposes. These buildings are located on the northern part of the site close to the other glamping accommodation. These buildings have been internally adopted for accommodation purposes however no external works are being carried out to them. There are therefore no concerns in relation to these building integrating into the landscape.
159. In terms of any ancillary works such informal walkways around the proposed site and the access it is considered that these will integrate into the surroundings.
160. A proposed landscaping drawing and management plan has been submitted for consideration with the application. It states that over 10,000 trees have been planted over the last number of years along with native hedging. Further native species hedging and trees are proposed to be planted as part of this development. The landscaping plan also indicates that all existing trees on site are to be retained.
161. The policy tests associated with CTY 13 are considered to be met in full.

### Rural Character

162. For the reasons outlined above, and taking into account the established use, topography and existing landform and boundaries, the new buildings associated with the proposed development will not be unduly prominent in the landscape.

163. The spacious nature of the site and the location of buildings through the site means that they will not present as a sub urban style build of development when viewed with existing and approved buildings.
164. Instead, they present as distinct facilities within a much larger established recreational facility.
165. The existing established boundary treatments of the wider site along with the proposed landscaping will aid the integration of the in the site and ensure that the proposal will not be unduly prominent in the landscape.
166. It is considered that the proposal would not damage rural character and complies with policy CTY 14.

### **Access, Movement and Parking**

167. Detail submitted with the application indicates that the proposal will involve the alteration existing accesses to the public road for both vehicular and pedestrian use.
168. A Transport Assessment (TA) form prepared by MRA Partnership was submitted with the application.
169. The TA confirmed that the proposal will generate 551 vehicle trips a day to the site with 31 trips in the peak PM
170. The TA outlines that the site will be busiest outside of generic peak periods such as during weekends or school holidays. On weekdays it will not be busy in the morning and will generate some traffic in the evening. The aqua park will also be closed for half of the year during winter months.
171. The TA also states that the majority of the development within the application site is ancillary to the permitted use which would not generate any large amounts of traffic themselves. The aqua park is the main attraction at the site with the ancillary uses retaining people on the site for longer. Accommodation enables visitors to remain on site overnight.
172. The TA outlines the proposed parking arrangement for the site. It confirms that parking for the site will be accommodated within the enlarged car park. There are 442 spaces referenced on the drawing which includes 150 staff (maximum at peak season) 125 spaces for overnight car parking for the accommodation element of the proposal, 20 disabled spaces and 227 spaces for day time customer parking.
173. It is also stated that the maximum number of people on the inflatables is 100 per hour. Therefore allowing for overlap for changing there will be 200 persons on this element alone 227 spaces accommodates this with spare capacity for extended stays (e.g. day tickets) and ancillary uses. The approved parking has been increased to absorb peak demand ensuring no parking spills out on to the public road.

174. As described above DfI Roads are consulted and no road safety or adverse traffic impacts are identified. This advice is accepted and the requirements of policy AMP 2 are met.
175. A further planning application has also been submitted that will provide for a right hand turning lane into the site. This proposal is currently under consideration but will provide a safer and more convenient access arrangement into the site. This will provide further improvements to the wider network. That application is considered in parallel with this proposal.
176. The proposed buildings and additional recreation and tourism facilities use the existing parking arrangements which are provided communally within the site. There is adequate parking given the mix of uses and seasonally nature of the activities. The proposed uses are linked to the established use and enhance visitor experience. They do not add to the parking requirements. Not all of the existing parking is used all the time and there is adequate overflow arrangements for major events. The requirement of policy AMP 7 are met.

#### Archaeology and Built Heritage

177. Constraints associated with the site indicate the presence of a monument [DOW009:030] which is an existing Rath located near the entrance to the site.
178. An Archaeological Impact Assessment (AIA) was submitted with the application which concluded that 2 proposed units located to the north of the site could have an impact on potential surviving sub surface archaeological remains. As such the AIA recommended conditions requiring that mitigation in the form of supervision of topsoil stripping is carried out during the construction of these units.
179. HED Historic Monuments were consulted in relation to the proposal and agreed with the findings of the AIA. They stated in a response received on 20 May 2022 that:

*they have reviewed the Archaeological Impact Assessment and that they accept the any archaeological mitigation measures that were to be undertaken within the already development portions of areas P-15 and P-24 would be likely to create additional adverse impact and as such, agrees that no further archaeological works should be undertaken within these areas.*

*HM expressed concerns about the proximity of the proposed water slides in area P-31 to the monument and require a programme of works to include appropriate mitigation measures for this area. A management and maintenance plan is also required to ensure that the rath is maintained and protected from damage during ongoing development and use of the site as a leisure facility.*

180. Based on a review of the detail and advice received from Historic Monuments, the proposal will not impact on features of archaeological importance and the requirements of policy BH 2 are met in full.

### Natural Heritage

181. The application site lies within the Saintfield Road Local Landscape Policy Area (LLPA) (CF14).
182. Those features, or the combination of features, that contribute to the environmental quality, integrity or character of this area include:
  - Archaeological and monument sites and their surroundings - Traces of a Rath near the reservoir; and
  - Area of local nature conservation interest – Knockbracken Reservoir, a watercourse with associated vegetation including a group of trees
183. It is considered that the careful design of the proposal including the mitigation measures proposed in relation to the existing Rath will ensure that the proposal will not detract from the environmental quality, integrity and rural character of the Saintfield Road LLPA.
184. Natural Environment Division advised that the application site was hydrologically connected to Belvoir Area of Special Scientific Interest (ASSI) via the Carryduff River, Purdy's Burn and the River Lagan. The northern part of the site is also part of Knockbracken Glen Site of Local Nature Conservation Importance (SLNCI) woodland.
185. The view was also expressed that the site was likely to be used by bats, a European protected species under the Habitats Regulations, which may be impacted by the proposal and that the site contained hedgerows and a river which are Northern Ireland Priority Habitats (NIPH).
186. Natural Environment Division were consulted with the Construction Method Statement, Preliminary Ecology Appraisal (PEA) and badger survey along with associated drawings.
187. These statements conclude that the proposal within the SLNCI has been done sympathetically to minimise major disruption to the flora and fauna with all trees in each location being retained and only minimal area of undergrowth vegetation is to be removed.
188. It is also states that over 10,000 native tress have been planted over the wider development site over the last 4 years which has enhanced the overall biodiversity of the site.
189. The PEA also proposes additional biodiversity enhancements within "The Happy Valley" area in terms of mitigation measures in the form of new native

species and hazel woodland planting, new hedge planting and bat and bird boxes.

190. In a response received on 13 December 2022 Natural Environment Division made the following statement:

*NED recommends that final details of the proposed mitigation measures and construction methods should be provided in a final CMS, to include all proposed pollution prevention outlined and any additional mitigation that may be involved during extensive works in or in close proximity to the reservoir. The final CMS should be written in unambiguous and enforceable language. An appropriate condition, requiring the submission of a final CMS to the planning authority, should be imposed to ensure the final details of these measures are agreed, prior to works commencing, and implemented as described. NED would also highlight that due regard is given to NIEA, Water Management Unit's comments regarding works in proximity to waterways.*

*With regards to Badgers NED noted that the badger survey was carried out for the entire site boundary and 25m buffer as requested in the previous response dated 28/07/2022. The badger sett, previously identified, has been re-classified as a rabbit burrow, due to the extensive evidence of rabbit and its location within a rabbit warren. NED notes the ecologist recommendations that the historical outlier sett is protected by a 25m buffer from all construction works, storage of materials, and digging or mechanical works and recommends this is implemented throughout the construction phase.*

*NED also notes from the badger survey, Figure 1: mammal sightings and signs, that there were several areas with badger scat labelled throughout the site therefore badgers are active at the site and surrounding area. NED also notes from the CMS the construction of concrete foundations for the proposed structures at the site is detailed and piling has not been included as part of the construction methods. NED would highlight that the noise and vibrations from activities such as piling can cause disturbance to badgers. Therefore, if any piling works are proposed, a 100m buffer radius should be surveyed for badgers from the piling activities and a 100m protective buffer is required for any badger setts in proximity to the piling activities, otherwise a wildlife licence from NIEA may be required. Provided that no piling works are required for the construction phase of the proposed development, NED are content that no further survey is required.*

*The proposed development has the potential to result in foraging/commuting badgers getting trapped, injured or killed by falling into open excavations or getting trapped in open pipes. NED therefore recommend that all excavations should be covered at night or a means of escape, such as planks or soil ramps, should be installed and all pipes should also be sealed at night.*

*NED notes from the Landscape Site Plan, dated 22/08/2022, the proposed planting, and all planting since 2016 and 2021 has been included for*

*assessment. NED also notes from the Landscape Plan cover letter that any vegetation clearance of the Knockbracken Glen SLNCI was predominantly scrub, and all mature trees and shrubs were retained.*

*NED welcomes the additional and compensatory planting proposed however recommend, removal of non-native species such as hornbeam, field maple and beech, and planting with a higher proportion of native species to enhance the biodiversity of the site and further compensate for the loss of scrub and other habitat for this development. More information can be found at:  
<https://www.daera-ni.gov.uk/publications/native-species-planting-guidance>*

*NED recommends the retention of all trees in the Knockbracken glen SLNCI and that all retained trees will have root protection zones protected to British Standard 5837:2012 Trees in relation to design, demolition and construction – Recommendations during construction.*

*NED notes from the badger survey the evidence of fox at the site and increase in rabbit activity at the site since last surveyed. The applicant should be aware of the protection afforded to all animals under the Welfare of Animals Act (Northern Ireland) 2011 Therefore, based on the information provided to date, NED is content with the proposal, subject to conditions and informatives*

191. Based on the advice offered by NED, it is considered that the proposal meets the policy tests associated with policies NH 1, NH2 and NH 5 of PPS 2 and that no unacceptable impact on natural heritage features will arise.

### **Flooding and Drainage**

192. A Drainage and Flood Risk Assessment dated March 2022 by Sheehy Consultants was submitted in support of the application.
193. With regard to Policy FLD 1 – Development in Flood Plains DfI Rivers have advised that whilst they have no issue in principle a further drawing is required in relation to more detailed levels around a number of the glamping Pods relative to the Q100 flood plain extents.
194. FLD2 - Protection of Flood Defence and Drainage Infrastructure – DfI Rivers have advised that an undesignated watercourse known as the Carryduff River flows through the site.
195. Under 6.32 of Policy PPS 15 FLD 2, an adjacent working strip along a watercourse must be retained to facilitate future maintenance by DfI Rivers, other statutory undertaker or the riparian landowners. The working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary, and be provided with clear access and egress at all times. A working strip is available and the requirements of this policy are met.



196. FLD3 - Development and Surface Water - Dfl Rivers acknowledges the submission of a Drainage Assessment by Sheehy Consulting, stamp dated 15th March 2022 and comments as follows:-

*Dfl Rivers acknowledges the applicant has received Schedule 6 consent from the Dfl Rivers Area Office in relation to discharge to a watercourse. Dfl Rivers, while not being responsible for the preparation of this Drainage Assessment accepts its logic and has no reason to disagree with its conclusions.*

*It should be brought to the attention of the applicant that the responsibility for the accuracy of this Drainage Assessment and implementation of the proposed flood risk and drainage measures rests with the developer and their professional advisors.*

197. In terms of Policy FLD 5 - Development in Proximity to Reservoirs – Dfl Rivers reservoir inundation maps indicate that the northern region of this site is in a potential area of inundation emanating from Knockbracken Reservoir. Dfl Rivers is in possession of information confirming that Knockbracken Reservoir has ‘Condition Assurance’.
198. Consequently, Dfl Rivers has no reason to object to the proposal, at this time, from a reservoir flood risk perspective. For any subsequent planning consultation for development within the potential area of inundation of this reservoir the condition of the reservoir will need to be reconsidered.
199. Water Management Unit has also considered the impacts of the proposal on the surface water environment and in a response received on 28 July 2022 advised that they were content with the proposal subject to conditions and relevant statutory permissions being obtained.
200. Based on a review of the information provided and the advice received from both Dfl Rivers and Water Management Unit, it is considered that the proposed development will not present a flood risk.

#### NI Water

201. NI water have responded and indicated that the receiving foul sewerage network has reached capacity and that the public system cannot presently serve the development.
202. It is noted that the site currently has an existing connection into the network and that the majority of the works are retrospective, therefore the comments of NI water are not given significant weight in this instance.
203. Whilst no details are in front of us with regards to an alternative means of treatment the site is large enough to accommodate a waste water treatment plant. A suitably worded negative condition could also be added to deal with the concerns of NI Water if required.

### Renewable Energy

204. Detail submitted with the application indicates that solar panels are proposed along the north and eastern sides of the reservoir.
205. The solar panels are located low to the ground within the banks of the reservoir and the angle of orientation ensures it will not cause any impact or glare on nearby properties. Guidance states that solar panel are clean and silent in operation, therefore such proposals have little impact in terms of residential amenity.
206. Due to the discreet design and low elevation of the solar panels within the banks of the reservoir, and the existing vegetation and boundary treatment relating to the site it is considered that the solar panels will not be detrimental to the rural character of the area.
207. Environmental Health have not raised any concerns in relation to public safety or amenity.

### **Consideration of Representations**

208. One letters of objection has been received in relation to the proposal The issues raised by way of third party representations are considered below:

#### Two storey building will overlook properties on Saintfield Road.

209. An objection has been raised in relation to a structure located near the sand arena. The objector states that there will be overlooking into his property which is located on the main Saintfield Road. The structure in question has already been constructed and has been observed on site. The location of the building is on a ground level much lower than the Saintfield Road and it is only slightly visible.
210. Given its location and the fact that the building is more than 80 metres away from the nearest properties on the Saintfield Road it is unlikely that there will be any unacceptable overlooking to any existing residential properties.

### **Conclusions**

211. This application is presented to the Planning Committee with a recommendation to approve as the proposal in part provides enhanced access to outdoor sport and recreation facilities at an established site in the open countryside in accordance with the SPPS and policies OS 3 and OS 6 of PPS8.
212. It is further is considered that the requirements of the SPPS and policies TSM 2, 5 and 7 are met in full as the detailed layout, general arrangement and design of the additional tourism amenities, self-catering accommodation and other ancillary accommodation is acceptable at an established tourism asset in the open countryside.

213. The proposal complies with the SPPS and the relevant policy tests of policies of NH 1, NH 2 and NH 5 of PPS 2 in that the ecological appraisal and assessment submitted in support of the application demonstrates that the proposed development will not have a negative impact on any protected species or natural heritage feature within the site.
214. It is considered that the proposal complies with the SPPS and policy tests associated with policies AMP 2 and AMP 7 of PPS 3 in that the detail submitted demonstrates that the proposed development will create an accessible environment. An access to the public road can be accommodated that will not prejudice road safety or significantly inconvenience the flow of traffic and adequate provision for car parking and servicing arrangements is provided.
215. The proposed development complies with policy tests set out in the SPPS and policies FLD 1, 2, 3, 4 and 4 of PPS 15 in that the detail associated with the Flood Risk Assessment demonstrates that the development proposes adequate drainage proposals and demonstrates that there will be no risk from a drainage or flood risk.
216. It is considered that the proposal is considered to comply with the SPPS and policy BH 2 of PPS 6 in that the detail provided in support of the application demonstrates that the proposal will not cause harm to any archaeological features.
217. Finally it is considered whilst limited weight is afforded to the requirements of draft policies ENV 3 of draft BMAP it is still material considerations to be weighed in the decision making process. It is accepted that the nature and scale of the proposed works will not have an adverse impact on the Local Landscape Policy Area (CF14 Saintfield Road)

### Recommendation

218. It is recommended that planning permission is approved.

### Conditions

219. The following conditions are recommended:

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

**Reason:** Time limit

2. The development hereby permitted and coloured yellow as identified on drawing number M-05 bearing the Council date stamp 1 November 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.

3. The development coloured orange and as identified on drawing number M-05 bearing the Council date stamp 1 November 2022 is approved under section 55 of the Planning Act (Northern Ireland) 2011.

**Reason:** This element of the proposal is retrospective

4. All hard and soft landscape works shall be carried out in accordance with Drawing No L-01 bearing the date stamped 10 October and the approved details. The works shall be carried out no later than the first available planting season after occupation of that phase of the development.

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

5. 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.

6. No retained tree as identified on drawing No. L-01 bearing the date stamped 10 October 2022 shall be cut down, uprooted or destroyed or have its roots damaged nor shall arboriculture work or tree surgery take place on any retained tree without the written consent of the Council. Any retained tree that is removed, uprooted or destroyed shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

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

7. No development activity, including ground preparation or vegetation clearance, shall take place until a final Construction Methods Statement (CMS) has been submitted to and approved in writing by the Planning Authority. The approved CMS shall be implemented in accordance with the approved details and all works on site shall conform to the approved CMS, unless otherwise agreed in writing by the Planning Authority. The CMS shall include the following:
  - a. Construction methodology and timings of works of all proposed buildings and structures in and around the reservoirs and watercourses;
  - b. Pollution Prevention Plan; including suitable buffers between the location of all construction works, storage of excavated spoil and

construction materials, any refuelling, storage of oil/fuel, concrete mixing and washing areas and any watercourses or surface drains present on or adjacent to the site;

- c. Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
- d. Water Quality Monitoring Plan;
- e. Environmental Emergency Plan;

**Reason:** To protect Northern Ireland priority habitats and species, to ensure implementation of mitigation measures identified within the outline CMS and to prevent likely significant effects on the Belvoir Area of Special Scientific Interest (ASSI)

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

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

9. 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 Lisburn & Castlereagh City 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.

10. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 8

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

10 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 8. These measures shall be implemented and a final archaeological report shall be submitted to Lisburn & Castlereagh City Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Lisburn & Castlereagh City 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.

11. A landscape management and maintenance plan, including long term design objectives, management responsibilities and maintenance schedules for the monument shall be submitted to and approved by the Local Planning Authority in consultation with Historic Environment Division (Historic Monuments) prior to the commencement of the development.

**Reason:** To ensure that features of historical significance are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development.

12. Any artificial lighting to the development must minimise obtrusive light and conform to the requirements of the light intrusion levels within the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone – E3 (Suburban) contained within Table 2 of the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2011.

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

13. Suitable ventilation and filtration equipment must be installed to suppress and disperse odours created from cooking operations on the premises in line with the EMAQ document entitled 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems' to determine the level of odour control required.

**Reason:** To protect the amenity of neighbouring dwellings with respect to odour

14. To prevent possible blockages and flooding of adjacent properties any foul water from kitchens or food preparation areas should pass through a fat and grease trap of adequate design before discharge to the public sewer network. The fat and grease trap should be adequately cleaned and maintained as per manufacturer's instructions.

**Reason:** To protect the amenity of neighbouring dwellings with respect to odour

Note: Planning conditions are not provided by DfI Roads. Members are requested that this matter is delegated to officers

Site Location Plan – LA05/2022/0432/F





## Lisburn & Castlereagh City Council

|                           |   |
|---------------------------|---|
| Council/Committee         | Planning Committee  |
| Date of Committee Meeting | 06 March 2023   |
| Committee Interest        | Local [Exceptions Apply]  |
| Application Reference     | LA05/2021/1352/F  |
| Date of Application       | 07 December 2021  |
| District Electoral Area   | Castlereagh South   |
| Proposal Description      | Provision of new site access including right hand turn lane and all other associated work |
| Location                  | Land at Mealough Road and at No 1 Mealough Road Carryduff (Lets Go Hydro)                 |
| Representations           | None  |
| Case Officer              | Mark Burns  |
| Recommendation            | <b>APPROVAL</b>   |

### Summary of Recommendation

1. This application is categorised as a local planning application. It is presented to the committee at the request of Head of Planning and Capital Development as the proposed works are linked to the continued development of Let's Go Hydro as an outdoor sport and recreation facility and tourism asset.
2. The application is presented to the Planning Committee with a recommendation to approve as it is considered that the proposal complies with the SPPS and policy tests associated with policies AMP 2 of PPS 3 in that the detail submitted demonstrates that the proposed development will not prejudice road safety or significantly inconvenience the flow of traffic.
3. It is considered that the proposal is considered to comply with the SPPS and policy BH 2 and BH 4 of PPS 6 in that the detail provided in support of the application demonstrates that the proposal will not cause harm to any archaeological features. Furthermore, the mitigation proposed in the form of a developer funded programme of works and erection of temporary fence during construction works will ensure no harm is caused to archaeological features.
4. The proposed development complies with policy tests set out in the SPPS and policies FLD 1, 2, 3, and 5 of PPS 15 in that the detail associated with the Flood Risk Assessment demonstrates that the development proposes adequate

drainage proposals and demonstrates that there will be no risk from a drainage or flood risk.

### Description of Site and Surroundings

5. The application site is located at Carryduff and is comprised of lands adjacent to the A24 Saintfield Road to the east, Mealough Road to the south and the existing sports and recreation facility adjacent to the north and west.

### Proposed Development

6. Full planning permission is sought for the provision of new site access including right hand turn lane and all other associated work on land Land at Mealough Road and at No 1 Mealough Road, Carryduff (Lets Go Hydro).
7. The development involves the construction of a right hand turn lane off the existing Mealough Road, along the southeast boundary. It includes topographic regrading, surfacing and drainage.

### Relevant Planning History

8. The relevant planning history is as follows:

| Application Reference | Proposal  | Decision                        |
|-----------------------|---|---------------------------------|
| LA05/2017/0535/F      | The proposed Phase 1 is a change of a use of the existing reservoir to a new recreational water park. There is to be an upgrade of the existing access and associated parking, provision of paths and pontoons, 10 camping pods and associated facilities; lifeguard, reception and storage buildings. A boathouse consisting of clubhouse and storage facilities for the Belfast Kayak Academy will also be created alongside 2 no. water polo pitches | Permission Granted – 09/03/2018 |
| LA05/2018/0803/F      | The proposal is for the retrospective development of a cable park. A cable run has been installed on the reservoir with a storage shed erected on the reservoir shore. A pedestrian gate is proposed on the existing path to provide access to the Saintfield Road, at a safe location adjacent to the pedestrian crossing  | Permission Granted – 18/07/2019 |
| LA05/2018/0804/F      | The proposal is for the retrospective development of an Aqua Park. The existing boathouse has been enlarged internally with   | Permission Granted – 18/07/2019 |

| Application Reference | Proposal   | Decision                        |
|-----------------------|--|---------------------------------|
|                       | an additional 4 containers erected on site to provide further administrative, retail and storage space. The Aqua Park is inflatable and installed on the reservoir alongside a grandstand. The external works has been altered and a new private access road has been provided   |                                 |
| LA05/2018/0805/F      | The proposal is for the retrospective development of a glampsite. The number of camping pods has increased to 41 (10no. existing camping pods with an additional 30no. camping pods and a barrel sauna). This is supported by a change of use of the existing house into the site administrative headquarters, staff quarters and a public café. The existing car park has increased in size to accommodate up to 116 vehicles | Permission Granted – 18/07/2019 |
| LA05/2018/1255/F      | Temporary covered changing rooms, with sitting area, including wet suit pick up and drop off use. Proposed service area with bin storage and staff pedestrian ramp access and turning area for vehicles  | Permission Granted – 18/07/2019 |
| LA05/2018/1266/A      | Pair of Single sided post mounted side identification sign for main entrance to site on Mealough Road. Internal facility identification signage in 3D individual lettering identifying glamping site location. Pair of single sided post mounted side identification signage at traffic light junction of Saintfield Road/Manse Road/Mealough Road   | Consent Granted – 09/07/2019    |
| LA05/2019/0085/F      | Retention of floating house boat for short stay guest accommodation on Knockbracken reservoir  | Permission Granted – 04/10/2019 |
| LA05/2019/0160/F      | Aqua park landscape works: Beach, 12No. Beach Huts, Jetty and Lido   | Permission Granted – 18/07/2019 |
| LA05/2019/0221/F      | Proposed change of use of existing clubhouse/ reception café with staff accommodation to create new restaurant with ancillary utility laundry and storage buildings to facilitate proposal. Proposed Tepee structure to form additional covered dining space to rear with satellite kitchen  | Permission Granted – 07/10/2019 |
| LA05/2019/0161/F      | Sheltered reception for aqua park and small ancillary children's play park   | Permission Granted – 27/07/2020 |

| <b>Application Reference</b> | <b>Proposal</b>   | <b>Decision</b>                 |
|------------------------------|---|---------------------------------|
| LA05/2019/1113/F             | Dispersed washroom facilities and relocation of glamping pod (retrospective)  | Permission Granted – 21/10/2020 |
| LA05/2019/1114/F             | Retrospective application for the retention of storage shed   | Permission Granted – 21/10/2020 |
| LA05/2019/1313/F             | Proposed side extension to existing restaurant with associated external seating and covered seating. Proposed W.C. and shower buildings (retrospective) and 4no. Barbeque Huts (retrospective)  | Permission Granted – 21/10/2020 |
| LA05/2019/0997/F             | Retrospective application for the retention of bridge over Carryduff river for general access to land divided by the presence of the river  | Permission Granted – 13/04/2021 |
| LA05/2022/0432/F             | Full planning permission is sought in part retrospective for; change of use of land to provide ancillary extension of existing and approved recreational water park facility, glamping accommodation, staff accommodation, car parking, reconfiguration and extension to restaurant/ cafe building and provision of conferencing rooms, extension of clubhouse restaurant building, reception building, members club building with cafe (cable hub), house boats, camping and caravan hook-up areas, paths, solar panels, change of use of existing river house and river cottage buildings to ancillary self-catering holiday accommodation, storage and other ancillary buildings/ structures, landscaping and all associated works | Pending                         |

### Consultations

9. The following consultations were carried out:

| <b>Consultee</b>              | <b>Response</b> |
|-------------------------------|-----------------|
| DfI Roads                     | No Objection    |
| LCCC Environmental Health     | No Objection    |
| NI Water                      | No Objection    |
| Historic Environment Division | No Objection    |
| DfI Rivers Agency             | No Objection    |

## Representations

10. No representations in opposition to the application have been received.

## Planning Policy Context

### Relevant Policy and Guidance Documents

11. The relevant planning policy context which relates to the application is as follows:
  - Regional Development Strategy 2035
  - Carryduff Local Plan
  - Belfast Metropolitan Area Plan 2015 (BMAP 2015), draft BMAP and Strategic Planning Policy for Northern Ireland (SPPS): Planning for Sustainable Development
  - Planning Policy Statement 2 (PPS 2) : Natural Heritage
  - Planning Policy Statement 3 (PPS 3): Access, Movement and Parking
  - Planning Policy Statement 6 (PPS 6): Archaeology and the Built Environment
  - Planning Policy Statement 15 (PPS 15): Planning and Flood Risk
  - Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside.
12. The relevant guidance is:
  - Development Control Advice Note 15 - Vehicular Access Standards Creating Places

### Local Development Plan

13. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on Planning applications regard must be had to the requirements of the local development plan and that the determination of applications must be in accordance with the plan unless material considerations indicate otherwise.
14. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan 2015 had in its entirety not been lawfully adopted.
15. As a consequence of this decision, the Carryduff Local Plan 1993 is now the statutory development plan for the area, with the Belfast Metropolitan Area Plan (Draft) 2015 and its policy considerations remaining a material consideration in the assessment of applications.
16. Policy ENV 3 as set out in Part 3, Volume 1 of draft BMAP relates to Local Landscape Policy Areas [LLPAs]. This policy states that

*In designated Local Landscape Policy Areas [LLPAs], planning permission will not be granted for development that would be liable to adversely affect those features, or combination of features, that contribute to environmental quality, integrity or character.*

*Where riverbanks are included within LLPAs, planning permission will only be granted where access is provided to the river corridor as part of the development proposals.*

*Where proposals are within and/or adjoining a designated LLPA, a landscape buffer may be required to protect the environmental quality of the LLPA.*

17. Page 49 of the Lisburn Area Plan 2001 states

*that the Departments regional development control policies for the countryside which will apply in the Plan area are currently set out in the various Planning Policy Statements published to date.*

18. In respect of draft BMAP, page 16 states that

*Planning Policy Statements (PPSs) set out the policies of the Department on particular aspects of land use planning and apply to the whole of Northern Ireland. Their contents have informed the Plan preparation and the Plan Proposals. They are material to decisions on individual planning applications (and appeals) within the Plan Area.*

*In addition to the existing and emerging suite of PPSs, the Department is undertaking a comprehensive consolidation and review of planning policy in order to produce a single strategic planning policy statement (SPPS) which will reflect a new approach to the preparation of regional planning policy. The preparation of the SPPS will result in a more strategic, simpler and shorter statement of planning policy in time for the transfer of planning powers to Councils. Good practice guides and supplementary planning guidance may also be issued to illustrate how concepts contained in PPSs can best be implemented.*

### **Regional Policy Context**

19. The Strategic Planning Policy Statement (SPPS) published in September 2015 states that

*until the Council adopts the Plan Strategy for its new Local Development Plan there will be a transitional period in operation.*

20. The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.

21. During this period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.

22. Paragraph 1.2 of the SPPS states that

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

23. Paragraph 3.8 of the SPPS states

*that 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.*

24. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.

25. Paragraph 4.12 of the SPPS states

*that other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.*

26. It also advises that adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

27. Paragraph 6.65 states that

*the aim of the SPPS with regard to the countryside is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development, while supporting and sustaining rural communities consistent with the RDS.*

28. Paragraph 6.81 of the SPPS states that

*The planning system has a key role in achieving a vibrant economy. In this regard, the aim of the SPPS is to facilitate the economic development needs of Northern Ireland in ways consistent with the protection of the environment and the principles of sustainable development.*

29. Paragraph 6.199 states that

*The Government recognises that open space, sport and outdoor recreation is important to society now and in the future. It supports many cultural, social,*

*economic, health and environmental benefits. Everyone, particularly children, older people and people with disabilities should have easy access to open space and the opportunity to participate in sport and outdoor recreational activity or simply enjoy and have contact with nature.*

### **Sustainable Development in the Countryside**

30. PPS 21 – Sustainable Development in the Countryside sets out the planning policies for development in the countryside

31. Paragraph 3.1 of PPS 21 states that

*The aim of PPS 21 is to manage development in the countryside:*

- *in a manner consistent with achieving the strategic objectives of the Regional Development Strategy for Northern Ireland 2025; and*
- *in a manner which strikes a balance between the need to protect the countryside from unnecessary or inappropriate development, while supporting rural communities.*

32. Paragraph 3.2 of PPS 21 states that

*The objectives of PPS 21 are:*

- *to manage growth in the countryside to achieve appropriate and sustainable patterns of development that meet the essential needs of a vibrant rural community;*
- *to conserve the landscape and natural resources of the rural area and to protect it from excessive, inappropriate or obtrusive development and from the actual or potential effects of pollution;*
- *to facilitate development necessary to achieve a sustainable rural economy; including appropriate farm diversification and other economic activity; and*
- *to promote high standards in the design, siting and landscaping of development in the countryside.*

33. Policy CTY1 – Development in the Countryside states that

*there are a range of other types of non-residential development that may be acceptable in the countryside and that will contribute to the aims of sustainable development.*

34. It also states

*Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.*

*All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and*



*road safety. Access arrangements must be in accordance with the Department's published guidance*

35. In terms of Non Residential Development, the policy states that

*Planning permission will be granted for non-residential development in the countryside in the following cases:*

- *farm diversification proposals in accordance with Policy CTY 11;*
- *agricultural and forestry development in accordance with Policy CTY 12;*
- *the reuse of an existing building in accordance with Policy CTY 4;*
- *tourism development in accordance with the TOU Policies of PSRNI;*
- *industry and business uses in accordance with PPS 4 (currently under review);*
- *minerals development in accordance with the MIN Policies of PSRNI;*
- *outdoor sport and recreational uses in accordance with PPS 8;*
- *renewable energy projects in accordance with PPS 18; or*
- *a necessary community facility to serve the local rural population.*

### **Access, Movement and Parking**

36. PPS 3 – Access, Movement and Parking sets out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.

37. Paragraph 3.1 of PPS 3 states that

*The main objectives of this Statement are to:*

- *promote road safety, in particular, for pedestrians, cyclists and other vulnerable road users;*
- *restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes;*
- *make efficient use of road space within the context of promoting modal shift to more sustainable forms of transport;*
- *ensure that new development offers a realistic choice of access by walking, cycling and public transport, recognising that this may be less achievable in some rural areas;*
- *ensure the needs of people with disabilities and others whose mobility is impaired, are taken into account in relation to accessibility to buildings and parking provision;*
- *promote the provision of adequate facilities for cyclists in new development; promote parking policies that will assist in reducing reliance on the private car and help tackle growing congestion; and*
- *protect routes required for new transport schemes including disused transport routes with potential for future reuse.*

## Creating an Accessible Environment

### 38. Policy AMP 1 – Creating an Accessible Environment states that

*The Department's aim is to create a more accessible environment for everyone. Accordingly developers should take account of the specific needs of people with disabilities and others whose mobility is impaired in the design of new development. Where appropriate, the external layout of development will be required to incorporate all or some of the following:*

- *facilities to aid accessibility e.g. provision of dropped kerbs and tactile paving etc, together with the removal of any unnecessary obstructions;*
- *convenient movement along pathways and an unhindered approach to buildings;*
- *pedestrian priority to facilitate pedestrian movement within and between land uses; and*
- *ease of access to reserved car parking, public transport facilities and taxi ranks.*

*The development of a new building open to the public, or to be used for employment or education purposes, will only be permitted where it is designed to provide suitable access for all, whether as customers, visitors or employees. In such cases the Department will operate a presumption in favour of a level approach from the boundary of the site to the building entrance and the use of steps, ramps or mechanical aids will only be permitted where it is demonstrated that these are necessary.*

*The Department will also seek to ensure that access to existing buildings and their surroundings is improved as opportunities arise through alterations, extensions and changes of use.*

*The Department may require the submission of an Access Statement to accompany development proposals.*

## Access to Public Roads

### 39. Policy AMP 2 - Access to Public Roads states that

*planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:*

- a) *such access will not prejudice road safety or significantly inconvenience the flow of traffic; and*
- b) *the proposal does not conflict with Policy AMP 3 Access to Protected Routes.*

### 40. The policy also states that

*The acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Departments published guidance. Consideration will also be given to the following factors:*

- *the nature and scale of the development;*
- *the character of existing development;*
- *the contribution of the proposal to the creation of a quality environment, including the potential for urban / village regeneration and environmental improvement;*
- *the location and number of existing accesses; and*
- *the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.*

### **Archaeology and Built Heritage**

41. PPS 6 – Planning Archaeology and Built Heritage makes provision for the protection of our archaeology and built heritage.

#### The Protection of Archaeological Remains of Local Importance and their Settings

42. Policy BH 2 - The Protection of Archaeological Remains of Local Importance and their Settings states

*Development proposals which would adversely affect archaeological sites or monuments which are of local importance or their settings will only be permitted where the Department considers the importance of the proposed development or other material considerations outweigh the value of the remains in question.*

#### Archaeological Assessment and Evaluation

43. Policy BH 3 - Archaeological Assessment and Evaluation states that

*where the impact of a development proposal on important archaeological remains is unclear, or the relative importance of such remains is uncertain, the Department will normally require developers to provide further information in the form of an archaeological assessment or an archaeological evaluation.*

*Where such information is requested but not made available the planning authority will normally refuse planning permission.*

#### Archaeological Mitigation

44. Policy BH 4 – Archaeological Mitigation states that

*where it is decided to grant planning permission for development which will affect sites known to contain archaeological remains, the planning authority will impose conditions to ensure that appropriate measures are taken for the identification and mitigation of the archaeological impacts of the development, including where appropriate, the completion of a licensed excavation and recording of remains before development commences.*

## Natural Heritage

45. PPS 2 - Natural Heritage makes provision for ensuring that development does not harm or have a negative impact on any natural heritage or conservation.
46. Paragraph 3.1 of PPS 2 states

*The objectives of this Planning Policy Statement are:*

- *to seek to further the conservation, enhancement and restoration of the abundance, quality, diversity and distinctiveness of the regions natural heritage;*
- *to further sustainable development by ensuring that biological and geological diversity are conserved and enhanced as an integral part of social, economic and environmental development;*
- *to assist in meeting international (including European), national and local responsibilities and obligations in the protection and enhancement of the natural heritage;*
- *to contribute to rural renewal and urban regeneration by ensuring developments take account of the role and value of biodiversity in supporting economic diversification and contributing to a high quality environment;*
- *to protect and enhance biodiversity, geodiversity and the environment; and*
- *to take actions to reduce our carbon footprint and facilitate adaptation to climate change.*

### Species Protected by Law

47. With regard to European Protected species, Policy NH 2 states that

*Planning permission will only be granted for a development proposal that is not likely to harm a European protected species. In exceptional circumstances a development proposal that is likely to harm these species may only be permitted where:-*

- *there are no alternative solutions; and*
- *it is required for imperative reasons of overriding public interest; and*
- *there is no detriment to the maintenance of the population of the species at a favourable conservation status; and*
- *compensatory measures are agreed and fully secured.*

48. With regard to National Protected Species, Policy NH 2 states

*Planning permission will only be granted for a development proposal that is not likely to harm any other statutorily protected species and which can be adequately mitigated or compensated against.*

*Development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration*

*and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.*

#### Sites of Nature Conservation Importance – Local

49. Policy NH 4 - Sites of Nature Conservation Importance – Local states that

*Planning permission will only be granted for a development proposal that is not likely to have a significant adverse impact on:*

- *a Local Nature Reserve; or*
- *a Wildlife Refuge.*

*A development proposal which could have a significant adverse impact on a site of local importance may only be permitted where the benefits of the proposed development outweigh the value of the site.*

*In such cases, appropriate mitigation and/or compensatory measures will be required.*

#### **Planning and Flooding Risk**

50. PPS 15 – Planning and Flood Risk sets out policy to minimise and manage flood risk to people, property and the environment. The susceptibility of all land to flooding is a material consideration in the determination of planning applications.

51. Policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains states that

*Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy.*

52. Policy FLD 2 – Protection of Flood Defence and Drainage Infrastructure states that

*the planning authority will not permit development that would impede the operational effectiveness of flood defence and drainage infrastructure or hinder access to enable their maintenance.*

53. Policy FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states that

*A Drainage Assessment will be required for all development proposals that exceed any of the following thresholds:*

- *A residential development comprising of 10 or more dwelling units*
- *A development site in excess of 1 hectare*
- *A change of use involving new buildings and / or hardsurfacing exceeding 1000 square metres in area.*

*A Drainage Assessment will also be required for any development proposal, except for minor development, where:*

- *The proposed development is located in an area where there is evidence of a history of surface water flooding.*
- *Surface water run-off from the development may adversely impact upon other development or features of importance to nature conservation, archaeology or the built heritage.*

*Such development will be permitted where it is demonstrated through the Drainage Assessment that adequate measures will be put in place so as to effectively mitigate the flood risk to the proposed development and from the development elsewhere.*

*Where a Drainage Assessment is not required but there is potential for surface water flooding as indicated by the surface water layer of the Strategic Flood Map, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.*

*Where the proposed development is also located within a fluvial or coastal plan, then Policy FLD 1 will take precedence.*

## Assessment

54. Within the context of the planning policy tests outlined above, the following assessment is made relative to this particular application.

### Sustainable Development in the Countryside

55. Within the Carryduff Local Plan 1993 the lands associated with the road works is outside the settlement limit of Carryduff and within the Countryside.
56. Within draft BMAP the site also lies within the countryside with the settlement development limit of Carryduff runs along the southern, eastern and northern boundaries of the site.
57. The application is for the provision of a new site access including right hand turn lane and all other associated linked to the operation of an established sports and recreation and tourist facility.
58. The access and right hand turning lane is considered to be necessary roads infrastructure to ensure safe access to the adjacent facility given the volumes of traffic attracted to the site at peak times..

## Access Movement and Parking

59. The P1 Form indicates that access arrangements for the development involve the construction of a new access to a public road for pedestrian and vehicular use.
60. The transport assessment points to the traffic associated with the Lets Go Hydro site being seasonal, peaking in the summer and weekends when background traffic is lower.
61. Reference is made to a traffic survey undertaken at the access on May Bank Holiday weekend 2021 capturing high traffic volumes on the Saturday – first opening day post Covid lockdown restrictions.
62. Appendix 1 includes details on the traffic flow information for Mealough Road, and how this is anticipated to change when permitted housing is built and occupied. Design Manual for Roads and Bridges [DMRB] is used to consider the need for the right turn lane and to demonstrate that this is appropriate mitigation at the access.
63. In response to comments from DFI Roads received in April 2022, a Stage 1 and 2 Road Safety Audit carried out by Wyllie Lodge Ltd is submitted in support of the application on 17 June 2022.
64. Paragraph 1.1 of the documents states that the objective of a Road Safety Audit is to identify any aspects of a road design or construction scheme that could give rise to road safety concerns and, where possible, to suggest modifications that would improve the road safety of the resultant scheme.
65. The new access will replace an existing substandard access to the Lets Go Hydro site. Included in the proposal is the widening of the Mealough Road on its northern side to accommodate a dedicated right turn lane and ghost island road markings from the Mealough Road into the site.
66. Detail indicates that the access road will be 6 metres wide with 12 metres radii at the junction with Mealough Road with a footway on the east side of the carriageway.
67. The Mealough Road will be widened to provide three three-metre lanes for eastbound, westbound and right turning vehicles. Give way road markings will be provided at the junction of the access road and Mealough Road.
68. The recommendation presented in the Audit is that the fence, hedge and tree planting are removed from within the proposed 4.5 metre x 90 metre sight line visibility splays and the graded slope adjusted to be out with the required splays. This recommendation is accepted by applicant and change reflected on revised drawing 18-757 C-100 Rev C.
69. In relation to walking, cycling and horse riding a risk of pedestrians being struck by vehicles is identified at the proposed access and the west side of the

proposed access. The audit notes at paragraph 5.2 that the entrance to the facility is on the west side of the proposed access road, whilst the car park and main pedestrian route to the site are on the east side of the proposed access. A risk is identified that pedestrians may attempt to cross the access road at the unsuitable location and be struck by a passing vehicle. In addition, visually or physically impaired pedestrians may trip and fall on the full height kerb.

70. The recommendation presented in the Audit is that the 2 metre wide footway on the east side of the access from Mealough Road is extended around to the carpark and that an uncontrolled dropped kerb pedestrian crossing point with tactile paving is provided on the extended footway away from the junction with Mealough Road. This recommendation is accepted by applicant and change reflected on revised drawing 18-757 C-100 Rev C.
71. The Audit notes at paragraph 5.3 that it is not clear from the drawings provided whether there is a footway or managed verge around the radius on the western side of the proposed access. The view is expressed that if this is a footway, the short length may lead to pedestrians tripping and falling on the adjacent verge or the full height kerbs. If it is intended as a verge, pedestrians from the west may slip and fall on the grass or vegetation.
72. The recommendation presented in the Audit is that this area is constructed as a footway and that it is extended northwards towards the path to the entrance building and further onto the Mealough Road. In addition, it is recommended that a dropped kerb uncontrolled pedestrian crossing is provided on Mealough Road west of the proposed access and that a central refuge island is provided for pedestrians within the proposed carriageway hatching.
73. The Agent explains in a letter dated 17 June 2022 that this recommendation has been partially implemented at this stage as there is no pedestrian demand from this direction, and placing of a pedestrian crossing within a national speed limit road is not recommended with DMRB. Reference is made to a 2 metre wide verge being provided, enabling this to be retrospectively provided should there be a pedestrian demand in the future.
74. With regard to Traffic signs, carriageway markings and lighting the Audit at paragraph 5.4 identifies a risk of rear end vehicle collisions on Mealough Road west of the proposed access. It explains that the carriage way hatching to the west of the junction appears to have a solid white perimeter line and that vehicles may require to turn right into the access junction for the Pump House. Advice is provided that a solid white edge line does not permit vehicles to cross onto or over the hatching and that this may result in confusion for drivers and sudden braking as drivers decide how to turn into the pump house access.
75. The recommendation presented in the Audit is that the hatched area has a broken perimeter line.
76. DfI Roads in a response received on 2 September 2022 considered the detail of 17 June 2022 and advised that the application was unacceptable as insufficient detail is available on transportation issues. The applicant was asked to provide the following information:



- A revised engineering drawing showing the dimensions right turn access layout overlaying the new road layout. The old road and chainage need to be removed from the drawing for clarity; and
  - A PSD drawing in a form showing any new footway/roadway in red [to be adopted]. A blue line around the footprint of the roadworks should be included to enable the Right Turn Pocket and a note saying work to be carried out under an Article 3(4C) Agreement i.e. for work on the public road.
77. Information provided in November 2022 in response to comments from DfI Roads included an amended engineering drawing showing the dimensions right turn access layout overlaying the new road layout and a PSD drawing in a form showing any new footway/roadway in red.
78. DfI Roads in a response received on 06 January 2023 requested the following information
- 5 hard copies of the blue line drawing, the blue line drawing detail and 2 hard copies of the longitudinal section of the part of the Mealough Road which is to be constructed.
79. Information received on 20 February 2023 has been considered by DfI Roads and the advice received confirms that has no objection in principle to the proposed roads works but are still to provide planning conditions linked to the timing of the works.
80. The Council has no reason to disagree with the advice of DfI Roads and the works will increase road safety for general road users and those attracted to the sport and recreation and tourism facility. The requirements of policy AMP 2 are met and it is requested that the wording of the conditions be delegated to the officers.
81. The key consideration is that the works are scheduled to coincide with the proposed building works in the related application for this site.

### **Archaeology and Built Heritage**

82. An Archaeological Impact Assessment for a new right hand turn into the Lets Go Hydro site was carried out by Farrimond MacManus Ltd.
83. The assessment indicates that a desktop study confirmed that the proposed development is situated within an archaeological and historic environment with the remnant Knockbracken Reservoir being designated a Heritage site [IHR02724:000:00] and the site of an upstanding archaeological rath monument [DOW009:030] – a defensive farmstead enclosure of the Early Medieval period is situated within the Aqua Park boundary to the north west of the proposed development area. The assessment also indicates that the construction of the right hand turn lane is beyond the 20 metre construction exclusion buffer zone surrounding the rath monument and will not directly impact upon it.

84. While no upstanding archaeological features survive within the boundaries of the proposed development, an assessment of the archaeological potential of the proposed development area has been deemed as moderate given its location within proximity to the rath monument.
85. The assessment notes that invasive ground works associated with construction of the right hand lane therefore had the potential to have an adverse impact upon potential surviving sub surface archaeological remains.
86. The assessment also recommends that archaeological monitoring of topsoil stripping be undertaken during the construction of the right-hand turn lane as a means of identifying any potential sub surface remains and to provide for appropriate mitigation measures to be implemented in accordance with Policy BH 4 of PPS 6 – Planning, Archaeology and the Built Heritage.
87. Advice received from Historic Monuments on 23 February 2022 confirmed having reviewed the detail of the Archaeological Impact Assessment and considered the impacts of the proposal that the proposal satisfied the requirements of PPS 6 subject to conditions for the agreement and implementation of a developer funded programme of archaeological works.
88. The advice received also recommended that a temporary fence be erected during the course of site works to ensure that the area of the archaeological monument is not adversely affected.
89. Based on the information provided and advice received, it is accepted that The proposal complies with paragraph 6.4 of the SPPS and policy tests in PPS 6 in that the development of the right hand turn access will not adversely affect any archaeological sites or monuments which are of local importance including their settings.
90. Furthermore, the standard mitigation measures proposed in the programme of archaeological works will ensure that no archaeological deposits or features present within the footprint of development will be negatively impacted upon.

### **Planning and Flood Risk**

91. Advice from DfI Rivers dated 16 February 2022 confirms that there are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site. Advice indicates that the site is traversed by an undesignated watercourse which is known as Carryduff River.
92. Advice is also provided within the context of Policy FLD 1. The Flood Maps (NI) indicate that a small portion of the western boundary of the site lies within the 1 in 100 year Strategic Flood Plain. That said, the advice received indicates that there is a significant bank elevation at the area of the western boundary and the built development is outside the flood plain hence a Flood Risk Assessment is not required.

93. Taking a precautionary approach as advocated in PPS 15, it is recommended that the applicant establishes a Q100 level of the undesignated watercourse which is in close proximity to the western boundary of the site and sets the finished floor levels a minimum 600mm above this established level.
94. Advice is also provided that a working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary, and be provided with clear access and egress at all times.
95. The potential for surface water flooding as indicated on surface water layer of the Strategic Flood Map is noted. That said, and given the nature of the proposal it is not considered that a Drainage Assessment is necessary.

### Conclusions

96. The application is considered to comply with the SPPS and policy tests associated with policies AMP 2 of PPS 3 in that the detail submitted demonstrates that the proposed development will not prejudice road safety or significantly inconvenience the flow of traffic.
97. It is considered that the proposal is considered to comply with the SPPS and policy BH 2 and BH 4 of PPS 6 in that the detail provided in support of the application demonstrates that the proposal will not cause harm to any archaeological features. Furthermore, the mitigation proposed in the form of a developer funded programme of works and erection of temporary fence during construction works will ensure no harm is caused to archaeological features.
98. The proposed development complies with policy tests set out in the SPPS and policies FLD 1 - 3 of PPS 15 in that the proposed works present no issue from a drainage or flood risk.

### Recommendation

99. It is recommended that planning permission is approved.

### Conditions

100. The following conditions are recommended:
  1. As required by section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.  
  
Reason: Time limit
  2. [roads conditions delegated to officer]

3. No site works of any nature or development shall take place until a fence has been erected around the area specified, on a line to be agreed with the Historic Environment Division: Historic Monuments. No works of any nature or development shall be carried out within the fenced area. No erection of huts or other structures, no storage of building materials, no dumping of spoil or topsoil or rubbish, no bonfires, nor any use, turning or parking of plant or machinery shall take place within the fenced area. The fence shall not be removed until the site works and development have been completed.

Reason: to prevent damage or disturbance of archaeological remains within the application site.

4. 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 Lisburn & Castlereagh City 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.

5. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 4 above.

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

6. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 4. These measures shall be implemented and a final archaeological report shall be submitted to Lisburn & Castlereagh City Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Lisburn & Castlereagh City 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.



**Lisburn & Castlereagh City Council**

|                            |   |
|----------------------------|---|
| Council/Committee          | Planning Committee  |
| Date of Committee Meeting  | 06 March 2023   |
| Council/Committee Interest | Local Application [Called In]                               |
| Application Reference      | LA05/2021/1364/O  |
| Date of Application        | 16 December 2021  |
| District Electoral Area    | Downshire West  |
| Proposal Description       | Dwelling and garage   |
| Location                   | 150m due west of 38 Backnamullagh Road<br>Dromore, BT25 1QT |
| Representations            | None  |
| Case Officer               | Richard McMullan  |
| Recommendation             | Refusal   |

**Summary of Recommendation**

1. The application is presented to Committee with recommendation to refuse as the proposal is considered to be contrary to the SPPS and Policy CTY 1 of PPS 21 in that there are no overriding reasons why the development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.
2. The proposal is contrary to the SPPS and Policy CTY 10 of PPS 21 in that the development is not visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development is not visually linked or sited to cluster with an established group of buildings on the farm.
4. The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and it would not respect the traditional pattern of settlement exhibited in the area and would

therefore result in a detrimental change to (further erode) the rural character of the countryside.

## Description of Site and Surroundings

### Site

5. The site is located on the southern side of the Backnamullagh Road, Dromore. Access is via an existing agricultural gate which leads into an open agricultural field.
6. The site is comprised of a rectangular plot cut out of the southern part of a larger field set back from the road by approximately 120 -130 metres.
7. The topography of the site is relatively flat although it was noted to fall slightly in a westerly direction.
8. The northern boundary is undefined, the southern and eastern boundaries are defined by hedging and trees. The western boundary defined by trees and a watercourse.
9. A small tin structure within the site adjacent to the southern site boundary. It appears to be a rudimentary animal shelter. This shelter was constructed from timber posts with corrugated tin sheets. The timber posts appear to be secured in place with concrete.
10. The structure has a mono pitch roof and is open on its eastern side providing access. A field gate secures the entrance to this structure. At the time of inspection a small animal feeder and some hay was also located adjacent to the structure.

Adjacent to this structure and adjacent to the eastern site boundary is a disused vehicle use for the storage of animal feed.

### Surroundings

11. The site is located in the open countryside where the land is mainly rural in character and the land predominantly in agricultural use.
12. There is a row of dwellings [35 - 49] fronting onto the Backnamullagh Road to the north east of the site.

## Proposed Development

13. The outline application is for a dwelling and garage on a farm.

## Relevant Planning History

14. There is no planning history associated with the application site.

## Consultations

15. The following consultations were carried out:

| Consultee     | Response     |
|---------------|--------------|
| LCCC EHO      | No objection |
| Rivers Agency | No objection |
| DAERA WMU     | No objection |
| DAERA         | No Objection |
| SES           | No objection |
| DfI Roads     | No objection |
| DAERA NED     | No objection |
| NI Water      | No objection |

## Representations

16. No representations in opposition to the proposal have been received.

## Planning Policy Context/Legislation

### Relevant Policy and Guidance Documents

17. The relevant policy documents are:

- The Lisburn Area Plan
- The draft Belfast Metropolitan Plan 2015
- The Strategic Planning Policy Statement (SPPS), published in September 2015.
- Planning Policy Statement 2 – Natural Heritage
- Planning Policy Statement 3 – Access
- Planning Policy Statement 15 - Planning and Flood Risk
- Planning Policy Statement 21 – Sustainable Development in the Countryside

18. The relevant guidance is:

- Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside
- Development Control Advice Note 15 - Vehicular Access Standards



### Local Development Plan Context

19. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on planning applications, regard must be had to the requirements of the local development plan and that determination must be in accordance with the plan unless material considerations indicate otherwise.
20. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
21. As a consequence, the Lisburn Area Plan is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
22. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside beyond any defined settlement limit and as there is no difference in the local plan context.
23. Page 49 of the Lisburn Area Plan 2001 states,

*that the Departments regional development control policies for the countryside which will apply in the Plan area are currently set out in the various Planning Policy Statements published to date.*

24. In respect of draft BMAP, page 16 states that

*Planning Policy Statements (PPSs) set out the policies of the Department on particular aspects of land use planning and apply to the whole of Northern Ireland. Their contents have informed the Plan preparation and the Plan Proposals. They are material to decisions on individual planning applications (and appeals) within the Plan Area.*

*In addition to the existing and emerging suite of PPSs, the Department is undertaking a comprehensive consolidation and review of planning policy in order to produce a single strategic planning policy statement (SPPS) which will reflect a new approach to the preparation of regional planning policy. The preparation of the SPPS will result in a more strategic, simpler and shorter statement of planning policy in time for the transfer of planning powers to Councils. Good practice guides and supplementary planning guidance may also be issued to illustrate how concepts contained in PPSs can best be implemented.*

### Regional Policy Context

25. The SPPS states that

*until the Council adopts the Plan Strategy for its new Local Development Plan, there will be a transitional period in operation.*

*The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.*

*During this transitional period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.*

26. Paragraph 3.8 of the SPPS states

*that 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.*

27. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.

28. Paragraph 4.11 of the SPPS states that

*there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development.*

29. By way of example, it explains that the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development.

30. It also advises that the planning system can also positively contribute to improving air quality and minimising its harmful impacts. Additional strategic guidance on noise and air quality as material considerations in the planning process is set out at Annex A.

31. Paragraph 4.12 of the SPPS states

*that other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.*

32. It also advises that adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in

consultation with stakeholders, all relevant environment and amenity considerations for their areas.

33. Paragraph 6.73 of the SPPS states that

*provision should be made for a dwelling house on an active and established farm business to accommodate those engaged in the farm business or other rural dwellers. The farm business must be currently active and have been established for a minimum of 6 years; no dwellings or development opportunities shall have been sold off or transferred from the farm holding within 10 years of the date of the application; and, the proposed dwelling must be visually linked or sited to cluster with an established group of buildings on the farm holding. Dwellings on farms must also comply with LDP policies regarding integration and rural character. A dwelling on a farm under this policy will only be acceptable once every 10 years;*

34. Paragraph 6.78 of the SPPS states that

*supplementary planning guidance contained within Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside must be taken into account in assessing all development proposals in the countryside.*

35. Paragraph 6.174 of the SPPS states that

*Planning authorities should apply the precautionary principle when considering the impacts of a proposed development on national or international significant landscape or natural heritage resources.*

36. Paragraph 6.182 of the SPPS states that

*Development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.*

37. Paragraph 6.198 of the SPPS states that

*Planning authorities should ensure that the potential effects on landscape and natural heritage, including the cumulative effect of development are considered. With careful planning and design the potential for conflict can be minimised and enhancement of features brought about.*

38. Paragraph 6.99 of the SPPS states that

*Flooding is a natural process that cannot be entirely prevented. Some areas are already susceptible to intermittent flooding from various sources, principally from rivers, the sea or surface water runoff. Climate change is generally expected to increase flood risk, albeit that there remains much uncertainty as to the degree of climate change that will occur and the implications for particular areas of Northern Ireland.*

39. Paragraph 6.103 of the SPPS states that;

*The aim of the SPPS in relation to flood risk is to prevent future development that may be at risk from flooding or that may increase the risk of flooding elsewhere.*

40. Paragraph 6.132 of the SPPS states that;

*All planning applications will be determined with reference to the most up to date flood risk information available. The planning authority should consult Rivers Agency and other relevant bodies as appropriate, in a number of circumstances, where prevailing information suggests that flood risk or inadequate drainage infrastructure is likely to be a material consideration in the determination of the development proposal. The purpose of the consultation will often involve seeking advice on the nature and extent of flood risks and the scope for management and mitigation of those risks, where appropriate.*

### **Building on Tradition**

41. Whilst not policy, and of lesser weight as a guidance document, the SPPS states that regard must be had to this guidance in assessing the proposal. Paragraph 4.1.0 of this guidance notes states that

*A core requirements of much of the development covered by PPS 21 is that it is integrated within (and in particular instances visually linked to) the countryside and/or other established buildings.*

*The policies are structured to direct development to locate within existing small communities, at the edge of small settlements, within existing built clusters, adjacent to established farm groups or if a case can be made to depart from these, to fully integrate with the surrounding landscape.*

*To reduce the impact of a new building in the countryside, new buildings are required to be “visually linked”, or sited to cluster with an established group of buildings on a farm.*

*These should be positioned sensitively so as form an integral part of that building group, or when viewed from surrounding vantage points, the new building reads as being visually interlinked with those buildings.*

### **Sustainable Development in the Countryside**

42. PPS 21 – Sustainable Development in the Countryside sets out planning policies for development in the countryside and lists the range of development which in principle is considered to be acceptable and contribute to the aims of sustainable development.

43. Policy CTY 1 states that

*There are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The policy states:*

*Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.*

*All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department's published guidance.*

*Where a Special Countryside Area (SCA) is designated in a development plan, no development will be permitted unless it complies with the specific policy provisions of the relevant plan.*

44. The policy also states that

*Planning permission will be granted for an individual dwelling house in the countryside in the following cases:*

- *a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;*
- *a replacement dwelling in accordance with Policy CTY 3;*
- *a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;*
- *a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;*
- *the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or*
- *a dwelling on a farm in accordance with Policy CTY 10.*

Dwelling on a Farm

45. Policy CTY 10 states that:

*Planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:*

- (a) *the farm business is currently active and has been established for at least 6 years;*
- (b) *no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and*

- (c) *the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.*

*Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:*

- *demonstrable health and safety reasons; or*
- *verifiable plans to expand the farm business at the existing building group(s).*

*In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16.*

*Planning permission granted under this policy will only be forthcoming once every 10 years.*

*A proposal for a dwelling by those involved in the keeping and breeding of horses for commercial purposes will also be assessed under the criteria set out in this policy.*

46. The justification and amplification to Policy CTY 10 which states:

*5.37 In recognition of changing farming practices and to help support rural communities, it is considered that there is a continuing need for new dwellings on farms to accommodate both those engaged in the farm business and other rural dwellers.*

*5.38 New houses on farms will not be acceptable unless the existing farming business is both established and active. The applicant will therefore be required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period.*

*5.39 For the purposes of this policy 'agricultural activity' refers to the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition. This is in line with EU and DARD regulations; Article 2 of European Council Regulation (EC) No. 73/2009.*

*5.41 To help minimise impact on the character and appearance of the landscape such dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them. If however, the existing building group is well landscaped, or where a site adjacent to the building group is well landscaped planning permission can be granted for a new dwelling even though the degree of visual linkage*

*between the two is either very limited, or virtually non-existent due to the amount of screening vegetation. It will not be acceptable to position a new dwelling with buildings which are on a neighbouring farm holding.*

*5.45 The Department for Agriculture and Rural Development will confirm the DARD Business ID number. DARD and other relevant authorities will be further consulted as necessary on applications for dwellings on farms, including those for equine businesses.*

#### Integration and Design of Buildings in the Countryside

47. Policy CTY 13 – Integration and Design of Buildings in the Countryside states that

*planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.*

48. The policy also states that  
a new building will be unacceptable where:

- (a) it is a prominent feature in the landscape; or*
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
- (c) it relies primarily on the use of new landscaping for integration; or*
- (d) ancillary works do not integrate with their surroundings; or*
- (e) the design of the building is inappropriate for the site and its locality; or*
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

#### Rural Character

49. Policy CTY 14 – Rural Character states

*that planning permission will be granted for a building(s) in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.*

50. The policy states that

*A new building will be unacceptable where:*

- (a) it is unduly prominent in the landscape; or*
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or*

- (c) *it does not respect the traditional pattern of settlement exhibited in that area; or*
- (d) *it creates or adds to a ribbon of development (see Policy CTY 8); or*
- (e) *the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.*

51. With regard to Policy CTY 14, Building on Tradition [page 131] states that

*Where appropriate, applications for buildings in the countryside should include details for site works, retention or reinstatement of boundaries, hedges and walls and details of new landscaping.*

*Applicants are encouraged to submit a design concept statement setting out the processes involved in the site selection and analysis, building design, and should consider the use of renewable energy and drainage technologies as part of their planning application.*

#### Development Relying on Non-Mains Sewerage

52. Policy CTY 16 - Development Relying on Non-Mains Sewerage states

*that Planning Permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.*

53. The policy also states that

*Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made.*

*In those areas identified as having a pollution risk development relying on non-mains sewerage will only be permitted in exceptional circumstances.*

54. With regards to Policy CTY16, Building on Tradition [page 131] states that

*If Consent for Discharge has been granted under the Water (Northern Ireland) Order 1999 for the proposed development site, a copy of this should be submitted to accompany the planning application. This is required to discharge any trade or sewage effluent or any other potentially polluting matter from commercial, industrial or domestic premises to waterways or underground strata. In other cases, applications involving the use of non-mains sewerage, including outline applications, will be required to provide sufficient information about how it is intended to treat effluent from the development so that this matter can be properly assessed. This will normally include information about ground conditions, including the soil and groundwater characteristics, together with details of adjoining developments existing or approved. Where the proposal involves an on-site sewage treatment plant, such as a septic tank or a package treatment plant, the application will also need to be accompanied by drawings that accurately show the proposed location of the installation and*



*soakaway, and of drainage ditches and watercourses in the immediate vicinity. The site for the proposed apparatus should be located on land within the application site or otherwise within the applicant's control and therefore subject to any planning conditions relating to the development of the site.*

### **Natural Heritage**

55. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.

56. Policy NH 1 – European and Ramsar Sites states

*that Planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on:*

- *a European Site (Special Protection Area, proposed Special Protection Area, Special Areas of Conservation, candidate Special Areas of Conservation and Sites of Community Importance); or*
- *a listed or proposed Ramsar Site.*

57. The policy also states that

*where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the planning authority shall make an appropriate assessment of the implications for the site in view of the site's conservation objectives.*

*Appropriate mitigation measures in the form of planning conditions may be imposed. In light of the conclusions of the assessment, the Department shall agree to the development only after having ascertained that it will not adversely affect the integrity of the site.*

*In exceptional circumstances, a development proposal which could adversely affect the integrity of a European or Ramsar Site may only be permitted where:*

- *there are no alternative solutions; and*
- *the proposed development is required for imperative reasons of overriding public interest; and*
- *compensatory measures are agreed and fully secured.*

58. Policy NH5 - Habitats, Species or Features of Natural Heritage Importance states that

*planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:*

- *priority habitats;*
- *priority species;*

- active peatland;
- ancient and long-established woodland;
- features of earth science conservation importance;
- features of the landscape which are of major importance for wild flora and fauna;
- rare or threatened native species;
- wetlands (includes river corridors); or
- other natural heritage features worthy of protection.

59. The policy also states that

*a development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features may only be permitted where the benefits of the proposed development outweigh the value of the habitat, species or feature. In such cases, appropriate mitigation and/or compensatory measures will be required.*

### **Access, Movement and Parking**

60. PPS 3 - Access, Movement and Parking and PPS 3 (Clarification), set out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.

61. Policy AMP 2 – Access to Public Roads states

*that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:*

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

### **Development Control Advice Note 15 – Vehicular Access Standards**

62. Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 that

*The Department's Planning Policy Statement 3 "Development Control: Roads Considerations" (PPS3) refers to the Departments standards for vehicular accesses. This Development Control Advice Note (DCAN) sets out and explains those standards.*

## Planning and Flood Risk

63. PPS 15 –Planning and Flood Risk sets out planning policies to minimise and manage flood risk to people, property and the environment. It embodies the government’s commitment to sustainable development and the conservation of biodiversity.

64. It adopts a precautionary approach to development and the use of land that takes account of climate change and emerging information relating to flood risk through the implementation of the EU Floods Directive in N. Ireland and the implementation of sustainable drainage systems.

65. Policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains states that

*Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy.*

66. Policy FLD 2 - Protection of Flood Defence and Drainage Infrastructure states that

*the planning authority will not permit development that would impede the operational effectiveness of flood defence and drainage infrastructure or hinder access to enable their maintenance.*

67. Policy FLD 3 - Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states that

*a Drainage Assessment will be required for all development proposals that exceed any of the following thresholds:*

- *A residential development comprising of 10 or more dwelling units;*
- *A development site in excess of 1 hectare;*
- *A change of use involving new buildings and/or hard surfacing exceeding 1000 square metres in area.*

68. It also states that

*a Drainage Assessment will also be required for any development proposal, except for minor development, where:*

- *The proposed development is located in an area where there is evidence of a history of surface water flooding.*
- *Surface water run-off from the development may adversely impact upon other development or features of importance to nature conservation, archaeology or the built heritage.*

*Such development will be permitted where it is demonstrated through the Drainage Assessment that adequate measures will be put in place so as to effectively mitigate the flood risk to the proposed development and from the development elsewhere.*

*Where a Drainage Assessment is not required but there is potential for surface water flooding as indicated by the surface water layer of the Strategic Flood Map, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.*

*Where the proposed development is also located within a fluvial or coastal flood plain, then Policy FLD 1 will take precedence.*

69. Policy FLD 4 Artificial Modification of Watercourses states that

*the planning authority will only permit the artificial modification of a watercourse, including culverting or canalisation operations, in either of the following exceptional circumstances:*

- *Where the culverting of short length of a watercourse is necessary to provide access to a development site or part thereof;*
- *Where it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action.*

70. Policy FLD 5 Development in Proximity to Reservoirs states:

*New development will only be permitted within the potential flood inundation area of a "controlled reservoir"<sup>14</sup> as shown on the Strategic Flood Map, if:*

- *the applicant can demonstrate that the condition, management and maintenance regime of the reservoir is appropriate to provide sufficient assurance regarding reservoir safety, so as to enable the development to proceed;*
- *the application is accompanied by a Flood Risk Assessment which demonstrates:*
  1. *an assessment of the downstream flood risk in the event of: - a controlled release of water - an uncontrolled release of water due to reservoir failure - a change in flow paths as a result of the proposed development and*
  2. *that there are suitable measures to manage and mitigate the identified flood risk, including details of emergency evacuation procedures*

*A proposal for the replacement of an existing building within the potential flood inundation area downstream of a controlled reservoir must be accompanied by a Flood Risk Assessment. Planning permission will be granted provided it is*

*demonstrated that there is no material increase in the flood risk to the development or elsewhere.*

*There will be a presumption against development within the potential flood inundation area for proposals that include:*

- *essential infrastructure;*
- *storage of hazardous substances;*
- *bespoke accommodation for vulnerable groups; and for any development located in areas where the Flood Risk Assessment indicates potential for an unacceptable combination of depth and velocity.*

## Assessment

71. Within the context of the planning policy tests outlined above, the following assessment is made relative to this particular application.

### Farm Dwelling

72. The first part of the policy test [criteria a] is to determine if the site falls within a currently active and established (for at least 6 years) farm business.
73. Advice from DAERA Countryside Management Inspectorate Branch in a response dated 23 February 2022 advised that the Farm Business ID submitted in support of the application has been in existence for more than 6. Advice also confirms that the farm business is classified as a category one business and that the business ID was allocated on 19 September 2014.
74. Confirmation is also provided that the farm business has claimed BPS or AES in each of the last 6 years and that the application site is on land for which payments are currently being claimed.
75. Based on a review of the detail submitted and advice from DAERA, it is accepted that the farm business associated with the application site is currently active and established for at least 6 years.
76. With regard to criteria (b), an assessment of planning history records against the DAERA Farm Business Maps provided for consideration within this application confirms that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.
77. With regard to criteria (c), the detail indicates that the proposed dwelling will be sited beside a tin structure and former bread van used for the storage of fodder at the south eastern corner of the site.

78. The supporting detail provided as part of the application claims that the development shall be sited beside an existing cattle yard and sheds.
79. The view is also expressed that the proposed site is immediately adjacent and integrated visually with the original farm buildings found to the rear of field no. 8 of farm survey 3/50/140. These historic and presently used farm buildings are evidenced by two governmental third-party proofs as follows:
  1. As stated by DAERA on the 2021 SFP data sheet which excludes hard standing (farmyard/buildings) as part of field 8 from payment of SFP as it is not productive land for crops (hardstanding)
  2. As historically and to date identified by OS on their OS maps and Ace maps which show these agricultural buildings.
80. In consideration of these pieces of evidence, it is noted that within the DAERA data sheet that 0.004h of ground is ineligible as it is hardstanding. However, from inspection, the area around the structures referred to earlier in the report is grassed. It is also noted that the animal shelter is illustrated on the submitted 2004 business map dated 04 March 2005. The bread van is not illustrated.
81. An assessment of historic maps (PRONI Historic Map Viewer) illustrates that there were sheds on the land sometime between 1957-1986 map. The former bread van is not evident on this historic map. Likewise it is not present on the most recent map illustrated within the map viewer. It is also not a building for the purpose of assessing the policy.
82. There is no planning history associated with the most recent structure constructed at the site and relied upon as part of this application.
83. The decision associated with planning appeal 2020/A0061 provides some direction that is applicable to the assessment of this application in respect of the structures relied upon.
84. Point 5.8 of appeal decision makes reference to section 250 of the *Planning Act (Northern Ireland) 2011* which provides the definition of a building.
85. The decision report states that

*While the definition includes “any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building it is envisaged that policy writers would not have considered ‘any structure’ or ‘any part of a building’ as referred to in the Act as constituting an appropriate building for the purpose of applying the policy.*

*86. The paragraph continues by stating that*

*Its usefulness in respect of interpreting Policy CTY 10 is limited. The mere fact that something has been erected on land is not sufficient to make it a building for the purposes of policy and it is for the decision maker to determine what constitutes a building on a fact and degree basis.*

With this direction in mind, the tin animal shelter appears to be attached to the ground and has a degree of permanence. However, it is not a lawful structure/building as it does not benefit from planning approval or a certificate of lawfulness. As such, it cannot be taken into consideration in respect of policy CTY 10.

87. For the reasons outlined above, the bread van is not considered to be a structure within the meaning of a building as defined in the act and the tin structure does not benefit from planning permission nor has a certificate of lawful development being obtained. As such, there are no buildings [plural] within the farm holding at this location for the dwelling to visually link or sited.
88. The exceptional test of policy CTY 10 provides an opportunity for an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out farm, and where there are either demonstrable health and safety reasons; or verifiable plans to expand the farm business at the existing building group(s)
89. For the reasons outlined above, the new building not sited beside an established group of buildings on the farm hence the above exceptional tests are engaged.
90. In this instance having reviewed the detail provided in support of the application and taking into account the applicants address [44 Backnamullagh Road] another site may be available at the principal group of buildings on the farm. At this address there is a garage, hay shed, store and other agricultural shed in situ. Such an alternative site would however need to be tested through the application process.
91. No information is provided to justify the siting as proposed in respect of demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group [44 Backnamullagh Road] nor is there any planning history indicating the potential expansion of the existing group of buildings.
92. For the reasons outlined above, it is considered that the proposal fails to comply with the SPPS and Policy 10 (c) of PPS 21 in the Countryside in that it has not been demonstrated that the proposed new development is visually linked (or sited to cluster) with an established group of buildings on the farm.
93. The proposal is also contrary to the SPPS and Policy CTY 10 in that no justification for an alternative site has been provided in respect of demonstrable health and safety reasons or verifiable plans of expansion to justify the proposed siting.

### Integration and Design of Buildings in the Countryside

94. With regard to criteria (a), and in the absence of design details being available at this outline stage, it is considered that a dwelling of appropriate size and scale could be sited and designed so as not to be a prominent feature within the landscape.
95. Taking into account the boundaries as described earlier in the report, it is considered that the site would be able to provide a suitable degree of enclosure for a building to integrate into the landscape without relying on new landscaping for integration purposes.
96. Taking into account the topography of the site, it is considered that any required ancillary works could be designed so as to integrate into their surroundings.
97. With regard to criteria (g), the assessment above within the context of Policy CTY 10 demonstrates that the development is not visually linked or sited to cluster with an established group of buildings on a/the farm hence the policy tests associated with Policy CTY 13 (g) is not met.

### Rural Character

98. With regard to criteria (a) and as demonstrated above within the context of Policy CTY 13 (a) dwelling could be sited so as not to be unduly prominent in the landscape and ancillary works could be designed so as not to damage rural character.
99. That said, as the principle of development is unacceptable, the development if approved would result a suburban style build-up of development.
100. For the reasons outlined above, the proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and it would not respect the traditional pattern of settlement exhibited in the area and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

### Development Relying on Non-Mains Sewerage

101. Detail submitted with the application indicates that the development seeks to dispose of foul sewage via a septic tank.
102. The Councils Environmental Health Unit and Water Management Unit offer no objection.
103. Advice is provided that a detailed site plan which include the location of the proposed dwelling, the septic tank/biodisc and the area of subsoil irrigation for



the disposal of effluent must be provided at subsequent stage of the planning process.

104. Taking the above into account it is considered that the development as proposed will not create or add to any pollution issues.

### **Access, Movement and Parking**

105. Detail submitted with the application indicates that the access arrangements for the development involves the alteration of an existing access to a public road. From inspection this access can be seen to be an agricultural access.
106. DfI Roads have been consulted no objections is offered subject to conditions in relation to provision of splays, car parking and street furniture.
107. Taking the above into account it is considered that the proposed development complies with the tests associated with Policy AMP 2 of PPS 3 and that no issues of concern shall arise with respect of road safety or the flow of traffic along the Backnamullagh Road.

### **Natural Heritage**

108. A Biodiversity Checklist and Ecological statement has been provided in support of the application. The statement is prepared by ATECNI environmental consultancy.
109. Section four provides an assessment of ecological constraints and proposed mitigation. It advises that the site is not located within any site that has been designated for its nature conservation importance. That said, it notes a small watercourse which flows along the western boundary of this site. The view expressed is that this watercourse should be protected during the future development of the site.
110. The statement acknowledges that in the absence of mitigation, there is the potential for degradation of the adjacent aquatic habitat due to contaminated run-off or sediment resulting during the construction and operational phases of the development.
111. The following mitigation is recommended
- All works will be undertaken using best environmental practice and in accordance with all relevant Pollution Prevention Guidelines including PPG 1 “Understanding your environmental responsibilities – good environmental practices”, GPP 5 “Works and maintenance in or near water” and PPG6 “Working at Construction and Demolition Sites”;
  - A suitable buffer of 5m will be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the watercourse;

- All surface water run-off during the construction and operational phase should be directed away from this watercourse;
  - The storm drainage of the site, during site clearance, construction and operational phases of the development should be designed to the principles of Sustainable Drainage Systems (SuDS) in order to minimize the polluting effects of storm water on waterways.
112. In terms of protected species, the statement provides detail on Bats, Badgers and Otters, Smooth Newts and Birds. No additional surveys were considered necessary. Mitigation relating to the retention of existing trees/hedgerows and the provision of a 10m buffer to the stream is considered reasonable and necessary.
113. In a response dated 30 March 2022, Natural Environment Division confirmed that they had considered the impacts of the proposal on designated sites and other natural heritage interests and on the basis of the information provided, have no concerns subject to conditions.
114. Due to the proximity of the site to a stream/river along the western boundary and the potential hydrological link to the River Lagan, an informal consultation issued to Shared Environmental Services. Advice received on 10 November 2022 confirmed that they had considered the nature and location of the proposal and that it would have no conceivable effect on European sites. A formal consultation was not considered necessary.
115. Based on a review of the information provided and advice from statutory consultees, it is considered that the development complies with the requirements of PPS 2 Natural Heritage and is unlikely to have significant effect on European and/or Ramsar sites or habitats, species or features of natural heritage importance.

### **Planning and Flood Risk**

116. As explained above, a small watercourse flows along the western boundary of the site.
117. With respect to Policy FLD 1 the Rivers Agency Flood Maps (NI) indicates that the proposal does not lie within a 1 in 100 year fluvial flood plain.
118. Policy FLD 2, FLD 4 and FLD 5 are not applicable to the proposal and no Drainage Assessment is required. DFI Rivers offers no objection.
119. Taking the above into consideration it is considered that the development complies with the requirements of PPS 15 and that no issue in relation to flood risk will occur.

## Conclusions

120. For the reasons outlined in the report, the proposal is considered to be contrary to the SPPS and Policy CTY 1 of PPS 21 in that there are no overriding reasons why the development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.
121. The proposal is also contrary to the SPPS and Policy CTY 10 of PPS 21 in that the development is not visually linked or sited to cluster with an established group of buildings on the farm.
122. The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development is not visually linked or sited to cluster with an established group of buildings on the farm.
123. The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and it would not respect the traditional pattern of settlement exhibited in the area and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

## Recommendations

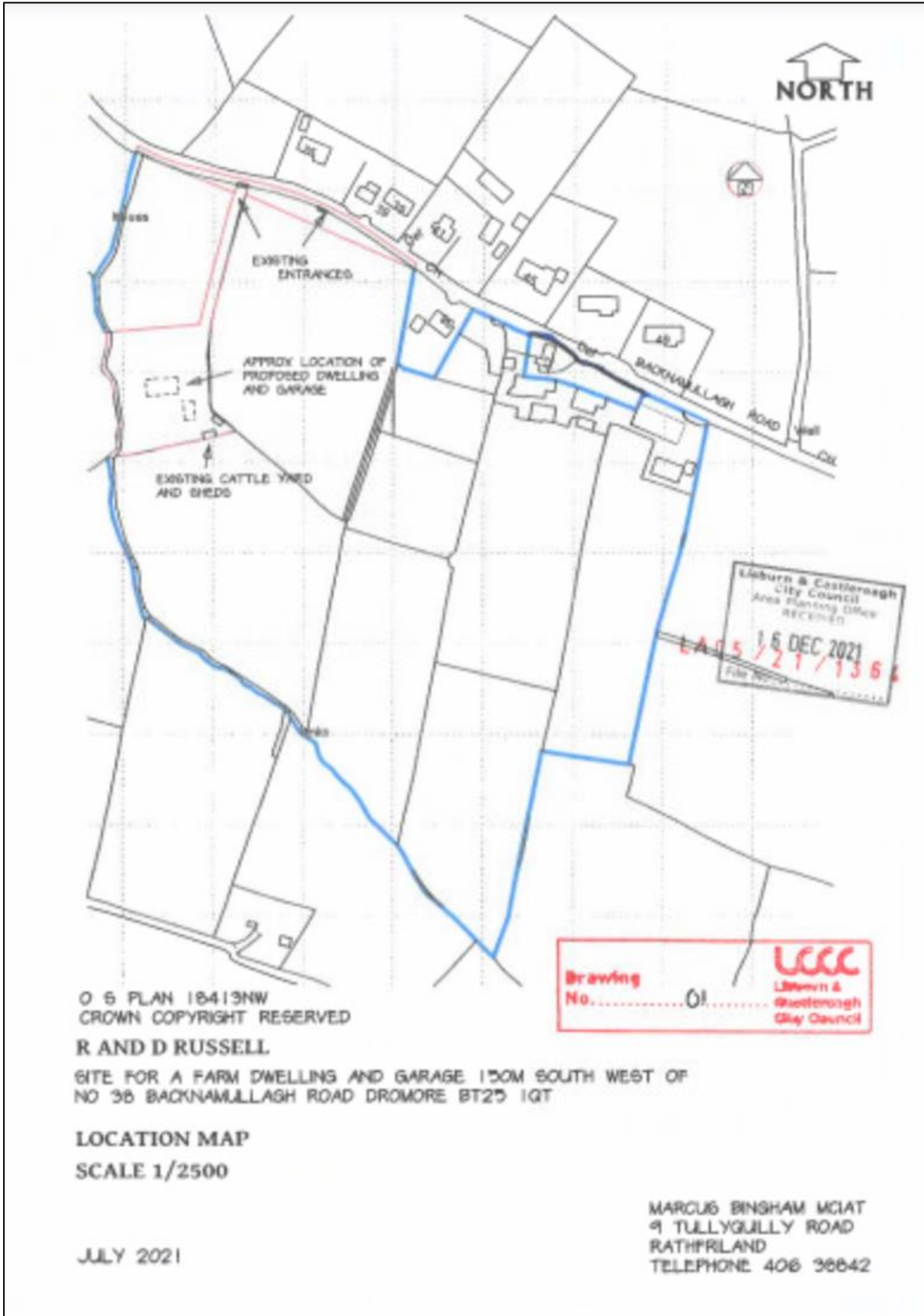
124. It is recommended that planning permission is refused.

## Refusal Reasons

125. The following refusal reasons are recommended.
- The proposal is contrary to the SPPS and Policy CTY 1 of PPS 21 in that there are no overriding reasons why the development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.
  - The proposal is contrary to the SPPS and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new development is visually linked (or sited to cluster) with an established group of buildings on the farm and no justification has been provided in respect of demonstrable health and safety reasons or verifiable plans of expansion to justify the proposed siting.

- The proposal is contrary to the SPPS and Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.
- The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and it would not respect the traditional pattern of settlement exhibited in the area and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

Site Location Plan – LA05/2021/1364/O



**Lisburn & Castlereagh City Council**

|                           |   |
|---------------------------|---|
| Council/Committee         | Planning Committee  |
| Date of Committee Meeting | 06 March 2023   |
| Committee Interest        | Local Application [Called In]   |
| Application Reference     | LA05/2022/0704/F  |
| Date of Application       | 25 July 2022  |
| District Electoral Area   | Killtulagh  |
| Proposal Description      | Temporary permission for mobile home to facilitate farming operations |
| Location                  | Approx. 37 metres southwest of 245 Moira Road, Lisburn                |
| Representations           | None  |
| Case Officer              | Richard McMullan  |
| Recommendation            | Refusal   |

**Summary of Recommendation**

1. The application is presented to the Committee in accordance with the Protocol for the Operation of the Committee in that it has been Called In. It is presented with a recommendation to refuse as considered to be contrary to the SPPS and Policy CTY 9 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposal is for the provision of temporary residential accommodation pending the development of a permanent dwelling or that there are compelling and site specific reasons illustrating that a residential caravan/mobile home is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.
2. Whilst no site specific road safety or traffic impact concerns are identified by DfI Roads, and an existing access is used the proposed development does not meet any of the exception tests for development in the countryside that can directly access onto a protected route and as such, it is contrary to the SPPS and Policy AMP 3 of PPS 3 – Access, Movement and Parking and the consequential amendment to policy AMP 3 in PPS21 in so far as it relates to access to Protected Routes.

## Description of Site and Surroundings

### Site

3. The site is located on the southern side of the Moira Road, Lisburn – a protected route. Access is via an existing driveway which serves an existing dwelling and group of agricultural buildings.
4. The site is set back from the road by approximately 220 – 230 metres to the rear of existing agricultural outbuildings.
5. The site is roughly rectangular in shape. At the time of inspection some ground could be seen to have been cleared and levelled.
6. The topography of the site falls gently in a southern direction. The site northern boundary is defined by agricultural outbuildings in part. The balance of this boundary is undefined and part of a larger agricultural field. The southern and eastern boundaries are defined by post and wire fencing. The western boundary defined by trees/hedging.

### Surroundings

7. The application site is located in the countryside and the surrounding land mainly in agricultural use.
8. Opposite the entrance to the site there are office/commercial premises. Lower Broomhedge is located to the east of the application site.

## Proposed Development

9. The application is for a temporary permission for mobile home to facilitate the existing farming operations on site.

## Relevant Planning History

10. The planning history associated with the site and the neighbouring buildings is set out in the table below:

|               |  |  |                                  |
|---------------|--|--|----------------------------------|
| S/2014/0852/F | Land approximately 100 metres south east of 245 Moira Road | Erection of two. broiler poultry houses with 4 feed bins, 2 gas tanks, biomass plant room with 1 | PERMISSION GRANTED<br>27.02.2015 |
|---------------|--|--|----------------------------------|

|  |                     |  |  |
|--|---------------------|--|--|
|  | Broughmore Lisburn, | . wood pellet bin, washing collection tank and an office, changing and standby generator building and associated site works (to contain 74,000 broilers) |  |
|--|---------------------|--|--|

## Consultations

11. The following consultations were carried out:

| Consultee                    | Response                                    |
|------------------------------|---|
| Environmental Health         | No objection                                |
| Water Management Unit        | No objection                                |
| DAERA                        | Established Business No single farm payment |
| DfI Roads                    | No objections                               |
| Natural Environment Division | No objection                                |
| NI Water                     | No objection                                |

## Representations

12. No representations in opposition to the proposal have been received.

## Planning Policy Context/Legislation

### Relevant Policy and Guidance Documents

13. The relevant policy documents are:

- The Lisburn Area Plan
- The draft Belfast Metropolitan Plan 2015
- The Strategic Planning Policy Statement (SPPS), published in September 2015,
- Planning Policy Statement 2 – Natural Heritage
- Planning Policy Statement 3 – Access
- Planning Policy Statement 21 – Sustainable Development in the Countryside



14. The relevant guidance is:
- Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside
  - Development Control Advice Note 15 - Vehicular Access Standards

### **Local Development Plan Context**

15. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on planning applications, regard must be had to the requirements of the local development plan and that determination must be in accordance with the plan unless material considerations indicate otherwise.
16. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
17. As a consequence, the Lisburn Area Plan is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
18. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside beyond any defined settlement limit
19. Page 49 of the Lisburn Area Plan 2001 states

*that the Departments regional development control policies for the countryside which will apply in the Plan area are currently set out in the various Planning Policy Statements published to date.*

20. In respect of draft BMAP, page 16 states that

*Planning Policy Statements (PPSs) set out the policies of the Department on particular aspects of land use planning and apply to the whole of Northern Ireland. Their contents have informed the Plan preparation and the Plan Proposals. They are material to decisions on individual planning applications (and appeals) within the Plan Area.*

*In addition to the existing and emerging suite of PPSs, the Department is undertaking a comprehensive consolidation and review of planning policy in order to produce a single strategic planning policy statement (SPPS) which will reflect a new approach to the preparation of regional planning policy. The preparation of the SPPS will result in a more strategic, simpler and shorter statement of planning policy in time for the transfer of planning powers to Councils. Good practice guides and supplementary planning guidance may also be issued to illustrate how concepts contained in PPSs can best be implemented.*

## Regional Policy Context

21. The SPPS states that

*until the Council adopts the Plan Strategy for its new Local Development Plan, there will be a transitional period in operation.*

*The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.*

*During this transitional period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.*

22. Paragraph 3.8 of the SPPS states

*that 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.*

23. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.

24. Paragraph 4.11 of the SPPS states that

*there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development.*

25. By way of example, it explains that the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development.
26. It also advises that the planning system can also positively contribute to improving air quality and minimising its harmful impacts. Additional strategic guidance on noise and air quality as material considerations in the planning process is set out at Annex A.
27. Paragraph 4.12 of the SPPS states

*that other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.*

28. It also advises that adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

29. Paragraph 6.73 of the SPPS states that

*A temporary caravan: provision should be made for a residential caravan or mobile home for a temporary period in exceptional circumstances. These may include the provision of temporary residential accommodation pending the development of a permanent dwelling, or where there are compelling and site specific reasons related to personal or domestic circumstances;*

30. Paragraph 6.78 of the SPPS states that

*supplementary planning guidance contained within Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside must be taken into account in assessing all development proposals in the countryside.*

31. Paragraph 6.174 of the SPPS states that

*Planning authorities should apply the precautionary principle when considering the impacts of a proposed development on national or international significant landscape or natural heritage resources.*

32. Paragraph 6.182 of the SPPS states that

*Development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.*

33. Paragraph 6.198 of the SPPS states that

*Planning authorities should ensure that the potential effects on landscape and natural heritage, including the cumulative effect of development are considered. With careful planning and design the potential for conflict can be minimised and enhancement of features brought about.*

### **Building on Tradition**

34. Whilst not policy, and of lesser weight as a guidance document, the SPPS states that regard must be had to this guidance in assessing the proposal. This guidance notes at paragraph 4.1.0 that

*A core requirements of much of the development covered by PPS 21 is that it is integrated within (and in particular instances visually linked to) the countryside and/or other established buildings.*

*The policies are structured to direct development to locate within existing small communities, at the edge of small settlements, within existing built clusters, adjacent to established farm groups or if a case can be made to depart from these, to fully integrate with the surrounding landscape.*

*To reduce the impact of a new building in the countryside, new buildings are required to be “visually linked”, or sited to cluster with an established group of buildings on a farm.*

*These should be positioned sensitively so as form an integral part of that building group, or when viewed from surrounding vantage points, the new building reads as being visually interlinked with those buildings.*

### **Sustainable Development in the Countryside**

35. PPS 21 – Sustainable Development in the Countryside sets out planning policies for development in the countryside and lists the range of development which in principle is considered to be acceptable and contribute to the aims of sustainable development.
36. Policy CTY 1 states that

*there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The policy states:*

*Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.*

*All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department’s published guidance.*

*Where a Special Countryside Area (SCA) is designated in a development plan, no development will be permitted unless it complies with the specific policy provisions of the relevant plan.*

37. The policy also states that

*Planning permission will also be granted in the countryside for:*

- *a residential caravan or mobile home in accordance with Policy CTY 9*

#### Residential Caravans and Mobile Homes

38. Policy CTY 9 states that:

*Planning permission may be granted for a residential caravan or mobile home, for a temporary period only, in exceptional circumstances.*

*These exceptional circumstances include:*

- *the provision of temporary residential accommodation pending the development of a permanent dwelling; or*
- *where there are compelling and site-specific reasons related to personal or domestic circumstances (see **Policy CTY 6**).*

*All permissions will normally be subject to a three-year time limit. However, this may be extended having regard to the particular circumstances of the case.*

*The siting of a residential caravan or mobile home will be subject to the same planning and environmental considerations as a permanent dwelling. Permission will depend on the ability to integrate the unit within an existing building group and screen the unit from public view. Residential caravans or mobile homes on farms will be required to be visually linked or sited to cluster with an established group of buildings on the farm.*

39. Regard is also had to the justification and amplification which states:

*5.35 The design and finishes of a residential caravan or mobile home limits its potential for integration into the landscape. For this reason, planning permission will not be granted for a permanently sited residential caravan or mobile home in the countryside.*

*5.36 It is accepted however, that in exceptional circumstances, a caravan or mobile home can be a sensible temporary solution, to meeting the need for residential accommodation in the countryside.*

40. Policy CTY 6 – Personal and Domestic Circumstances states that

*Planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:*

- (a) the applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and*
- (b) there are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.*

*All permissions granted under this policy will be subject to a condition restricting the occupation of the dwelling to a named individual and their dependents.*

#### Integration and Design of Buildings in the Countryside

41. Policy CTY 13 – Integration and Design of Buildings in the Countryside states that

*planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.*

42. The policy also states that

*a new building will be unacceptable where:*

- (a) it is a prominent feature in the landscape; or*
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
- (c) it relies primarily on the use of new landscaping for integration; or*
- (d) ancillary works do not integrate with their surroundings; or*
- (e) the design of the building is inappropriate for the site and its locality; or*
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

#### Rural Character

43. Policy CTY 14 – Rural Character states

*that planning permission will be granted for a building(s) in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.*

44. The policy states that

*A new building will be unacceptable where:*

- (a) it is unduly prominent in the landscape; or*
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or*
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or*
- (d) it creates or adds to a ribbon of development (see Policy CTY 8); or*
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.*

45. With regard to Policy CTY 14, Building on Tradition [page 131] states that

*Where appropriate, applications for buildings in the countryside should include details for site works, retention or reinstatement of boundaries, hedges and walls and details of new landscaping.*

*Applicants are encouraged to submit a design concept statement setting out the processes involved in the site selection and analysis, building design, and should consider the use of renewable energy and drainage technologies as part of their planning application.*

#### Development Relying on Non-Mains Sewerage

46. Policy CTY 16 - Development Relying on Non-Mains Sewerage states

*that Planning Permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.*

47. The policy also states that:

*Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made.*

*In those areas identified as having a pollution risk development relying on non-mains sewerage will only be permitted in exceptional circumstances.*

48. With regards to Policy CTY16, Building on Tradition [page 131] states that

*If Consent for Discharge has been granted under the Water (Northern Ireland) Order 1999 for the proposed development site, a copy of this should be submitted*

*to accompany the planning application. This is required to discharge any trade or sewage effluent or any other potentially polluting matter from commercial, industrial or domestic premises to waterways or underground strata. In other cases, applications involving the use of non-mains sewerage, including outline applications, will be required to provide sufficient information about how it is intended to treat effluent from the development so that this matter can be properly assessed. This will normally include information about ground conditions, including the soil and groundwater characteristics, together with details of adjoining developments existing or approved. Where the proposal involves an on-site sewage treatment plant, such as a septic tank or a package treatment plant, the application will also need to be accompanied by drawings that accurately show the proposed location of the installation and soakaway, and of drainage ditches and watercourses in the immediate vicinity. The site for the proposed apparatus should be located on land within the application site or otherwise within the applicant's control and therefore subject to any planning conditions relating to the development of the site.*

### **Natural Heritage**

49. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.

50. Policy NH 1 – European and Ramsar Sites states

*that Planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on:*

- *a European Site (Special Protection Area, proposed Special Protection Area, Special Areas of Conservation, candidate Special Areas of Conservation and Sites of Community Importance); or*
- *a listed or proposed Ramsar Site.*

51. The policy also states that

*where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the planning authority shall make an appropriate assessment of the implications for the site in view of the site's conservation objectives.*

*Appropriate mitigation measures in the form of planning conditions may be imposed. In light of the conclusions of the assessment, the Department shall agree to the development only after having ascertained that it will not adversely affect the integrity of the site.*

*In exceptional circumstances, a development proposal which could adversely affect the integrity of a European or Ramsar Site may only be permitted where:*

- *there are no alternative solutions; and*



- *the proposed development is required for imperative reasons of overriding public interest; and*
- *compensatory measures are agreed and fully secured.*

52. Policy NH5 - Habitats, Species or Features of Natural Heritage Importance states that

*planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:*

- priority habitats;
- priority species;
- active peatland;
- ancient and long-established woodland;
- features of earth science conservation importance;
- features of the landscape which are of major importance for wild flora and fauna;
- rare or threatened native species;
- wetlands (includes river corridors); or
- other natural heritage features worthy of protection.

53. The policy also states that

*a development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features may only be permitted where the benefits of the proposed development outweigh the value of the habitat, species or feature. In such cases, appropriate mitigation and/or compensatory measures will be required.*

### **Access, Movement and Parking**

54. PPS 3 - Access, Movement and Parking and PPS 3 (Clarification), set out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.

55. Policy AMP 2 – Access to Public Roads states

*that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:*

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

56. Policy AMP 3 - Access to Protected Routes states that

*The Department will restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes as follows:*

*Motorways – All locations Planning permission will not be granted for development proposals involving direct access. An exception may be considered in the case of motorway service areas.*

*Protected Routes Designed to an Appropriate Standard as Dual Carriageways, Ring Roads, Through-Passes and By-Passes – All locations Planning permission will only be granted for a development proposal involving direct access or the intensification of the use of an existing access in exceptional circumstances or where the proposal is of regional significance.*

*Other Protected Routes – Outside Settlement Limits Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access in the following cases:*

- (a) A Replacement Dwelling – where a building to be replaced would meet the criteria for development within a Green Belt or Countryside Policy Area and there is an existing vehicular access onto the Protected Route.*
- (b) A Farm Dwelling – where a farm dwelling, including a farm retirement dwelling, would meet the criteria for development within a Green Belt or Countryside Policy Area and access cannot reasonably be obtained from an adjacent minor road.*
- (c) A Dwelling Serving an Established Commercial or Industrial Enterprise – where a dwelling would meet the criteria for development within a Green Belt or Countryside Policy Area and access cannot reasonably be obtained from an adjacent minor road.*
- (d) Other Categories of Development – approval may be justified in particular cases for other developments which would meet the criteria for development within a Green Belt or Countryside Policy Area where access cannot reasonably be obtained from an adjacent minor road.*

57. The policy provisions set out in Annex 1 of PPS 21 [Consequential Revision) will take precedence over the policy provisions of Policy AMP 3 – Access to Protected Routes of PPS 3 insofar as they relate to proposals seeking access to the category of roads highlighted as ‘Other Protected Routes – Outside of Settlement Limits.

58. Annex 1 – Consequential amendment to Policy AMP 3 of PPS 3 – Access Movement and Parking states

*Planning permission will only be granted for a development proposal involving access onto this category of Protected Route in the following cases:*

- (a) *A Replacement Dwelling – where the building to be replaced would meet the criteria set out in Policy CTY 3 of PPS 21 and there is an existing vehicular access onto the Protected Route.*
- (b) *A Farm Dwelling – where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.*
- (c) *A Dwelling Serving an Established Commercial or Industrial Enterprise – where a dwelling would meet the criteria for development set out in Policy CTY 7 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.*
- (d) *Other Categories of Development – approval may be justified in particular cases for other developments which would meet the criteria for development in the countryside and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route. Access arrangements must be in accordance with the Department’s published guidance.*

59. It advises that the remainder of Policy AMP 3 as set out in the October 2006 Clarification, including the justification and amplification, remains unaltered.

#### Development Control Advice Note 15 – Vehicular Access Standards

60. Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 that

*The Department’s Planning Policy Statement 3 “Development Control: Roads Considerations” (PPS3) refers to the Departments standards for vehicular accesses. This Development Control Advice Note (DCAN) sets out and explains those standards.*

#### **Assessment**

61. Within the context of the planning policy tests outlined above, the following assessment is made relative to this particular application.

#### Residential Caravans and Mobile Homes

62. The application is for temporary permission for a mobile home to facilitate farming operations on site – it is not sought pending the development of a permanent dwelling. A planning history check of the application site and adjacent lands as

outlined in blue within this application confirms that no permission is granted for the development of a permanent dwelling. The first bullet point of Policy CTY 9 is met.

63. With regard to the second bullet point, the onus is on the applicant to demonstrate compelling and site specific reasons related to personal or domestic circumstances to justify the temporary building within the context of Policy CTY 6.
64. The applicant presents the following case to justify the application:
  - a. The applicant is an active and established farmer and will be entitled to a dwelling under PPS 21 CTY 10.
  - b. The existing farming operation has been active for several years originally approved under S/2014/0852/F.
  - c. No development opportunities have been sold or transferred from the farm in the past 10 years.
  - d. Currently the applicant lives off site and this is proving inconvenient with regard to managing and operating an intensive livestock operation which involves unsociable hours and attendance when alarms occasionally are activated with regard to feeding and provision of water supplies.
  - e. The applicant wishes to construct a dwelling on site under CTY10, but will require accommodation for a temporary period while location and design are finalised, and house price building costs resume to normal levels.
  - f. Under CTY 9 temporary provision can be granted pending the development of a permanent dwelling.
  - g. The location of the temporary home has been designed to blend sympathetically with the existing buildings on site immediately adjacent to the large existing shed and in close proximity to the existing poultry unit thus forming part of the farm cluster with no critical views from the public road.
65. Whilst the supporting information alludes to the applicants desire to construct a dwelling on the site under Policy CTY 10, there is no live application or planning history granting planning permission for a dwelling on the farm. The requirements of criteria are not met and the farming operations are said to have been continuing for several years without the need for a temporary accommodation.
66. With regard to the reference made to the applicant living off site and to the inconvenience encountered managing and operating an intensive livestock operation which involves unsociable hours and attendance when alarms occasionally are activated with regard to feeding and provision of water supplies.
67. In consideration of this point, it is noted that the applicant resides at 2 Wellington Park Drive, Maghaberry, Craigavon.
68. A google map search indicates that the travel time from the applicant's current residence (2 Wellington Park Drive, Maghaberry) to the application site (245 Moira Road) is approximately 5 minutes by car [approximately 2.3 miles away].
69. The supporting information provided explains that the existing farming operation has been active for several years. Planning history records indicate that planning

permission was granted for the erection of two broiler poultry houses with four feed bins, two gas tanks, biomass plant room with a wood pellet bin, washing collection tank and an office, changing and standby generator building and associated site works (to contain 74,000 broilers)' in February 2015 S/2014/0852/F].

70. Evidently, the existing farming operation has been operating from the site for a prolonged period of time and no information has been provided which indicates that short term circumstances have changed/arisen which would require the development as proposed.
71. Advice received from DAERA in a response received on 10 August 2022 confirms that the applicant's farm business ID has been in existence for more than 6 years but that the applicant has not claimed subsidies within each of the last 6 years. It is also outlined that the proposed site is located on land associated with another farm business.
72. No exception is demonstrated to justifying setting aside the requirements of policy CTY 9. No substantive compelling site specific reasons are presented consistent with the requirements of policy CTY 6.

#### Integration and Design of Buildings in the Countryside

73. The application site is located to the rear of an established farm outbuilding and as such a residential caravan/mobile home will not present as a prominent feature in the local landscape.
74. The site boundaries as described earlier in the report would not provide a suitable degree of enclosure to allow integration. However, given the location of the site to the rear of a large agricultural building and the absence of strong public views it is considered that a refusal on criteria (b) could not be sustained.
75. It is considered that ancillary works associated with access road into the site and the area of hardstanding is capable of being integrated into the surroundings as the existing roadside hedge is annotated to be retained.
76. The design of the proposed development is seen to be typical of a standard mobile home. It has a rectangular footprint and a flat roof. Its footprint measures 15.2 metres x 9.1 metre (138.32m.sq). It is 3.1 metres in height. The finishes are shown to be roughcast render with white uPVC windows.
77. If the principle of development was considered to be acceptable the design of the development would be acceptable albeit for a limited period of time.

#### Rural Character

78. As explained above within the context of Policy CTY 13, a mobile home would not present as an unduly prominent feature in the landscape and would not create a suburban style build-up of development.

79. Whilst mobile homes are not characteristic of the pattern of development exhibited in the area, if acceptable in principle, a mobile home for a temporary period would be acceptable.
80. No issues with respect to ribbon development would arise.
81. For the reasons outlined above the ancillary works would not damage the rural character of the local area.

#### Development Relying on Non-Mains Sewerage

82. Detail submitted with the application indicates that the development seeks to utilise a WWT plant in respect of foul sewerage.
83. The Council's Environmental Health Unit and Water Management Unit offer not objection.
84. Based on the detail submitted and advice received it is considered that the development will not create or add to a pollution problem.

#### **Access, Movement and Parking**

85. Detail submitted with the application indicates that access arrangements for the development involves the use of an existing unaltered access to a public road. As explained above, the Moira Road is a protected route.
86. Advice received from DfI Roads comments that the existing access requires improvement. The following advice was provided.

*Should a proposal comply with PPS 21 and PPS 3 then the intensified access will need to comply with PPS 3- Policy AMP 2 – Access to Public Roads to ensure a safe access.*

*The agent should submit an engineering drawing (scale 1:250) showing visibility splays of 2.4m X 120m and the first 10m of the access from the road edge to be 6m wide. It is noted that on submitted drawings it states that the access is to remain unaltered however the above splays and width are required to be shown for road safety.*

87. In a response received on 12 October 2022, DfI Roads confirmed that they had no objection in principle to the proposal on the grounds of road safety and traffic impact.
88. Whilst an existing access is used no road safety or traffic impact concerns are identified by DfI Roads, the proposal still has to meet the exceptions test for development in the countryside and as such. The form of development proposed

does not fit any of the exceptions and is contrary to the SPPS and the consequential amendment in so far as it relates to access to Protected Routes.

### **Natural Heritage**

89. A Biodiversity Checklist is submitted in support of the application. No designated Sites and/or Priority Habitats are identified as being impacted by the proposal.
90. Natural Environment Division [NED] have responded with no objection. Reference is made to standing advice. An assessment of the submitted biodiversity checklist provided by the agent has considered against the Biodiversity Checklist Decision Flow Chart provided by NED it is concluded that no further natural heritage assessment/reports is required.
91. For the reasons outlined above, it is considered that the development will not result in any adverse harm to any interests of natural heritage importance consistent with the policy requirements of PPS 2 Natural Heritage.

### **Amenity**

92. As explained above, the development is to be sited adjacent to a number of large poultry houses located to the east of the site.
93. The Council's Environmental Health Unit has been consulted and no objection is offered. Based on a review of the detail and advice received, it is considered that no issues of concern with respect to neighbouring amenity levels shall arise and also those of the development as proposed.

## **Conclusions**

94. The proposal considered to be contrary to the SPPS and Policy CTY 9 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposal is for the provision of temporary residential accommodation pending the development of a permanent dwelling or that there are compelling and site specific reasons illustrating that a residential caravan/mobile home is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.
95. Whilst no site specific road safety or traffic impact concerns are identified by DfI Roads, and an existing access is used the proposed development does not meet any of the exception tests for development in the countryside that can directly access onto a protected route and as such, it is contrary to the SPPS and Policy AMP 3 of PPS 3 – Access, Movement and Parking and the consequential amendment to policy AMP 3 in PPS21 in so far as it relates to access to Protected Routes.

## Recommendations

96. It is recommended that planning permission is refused.

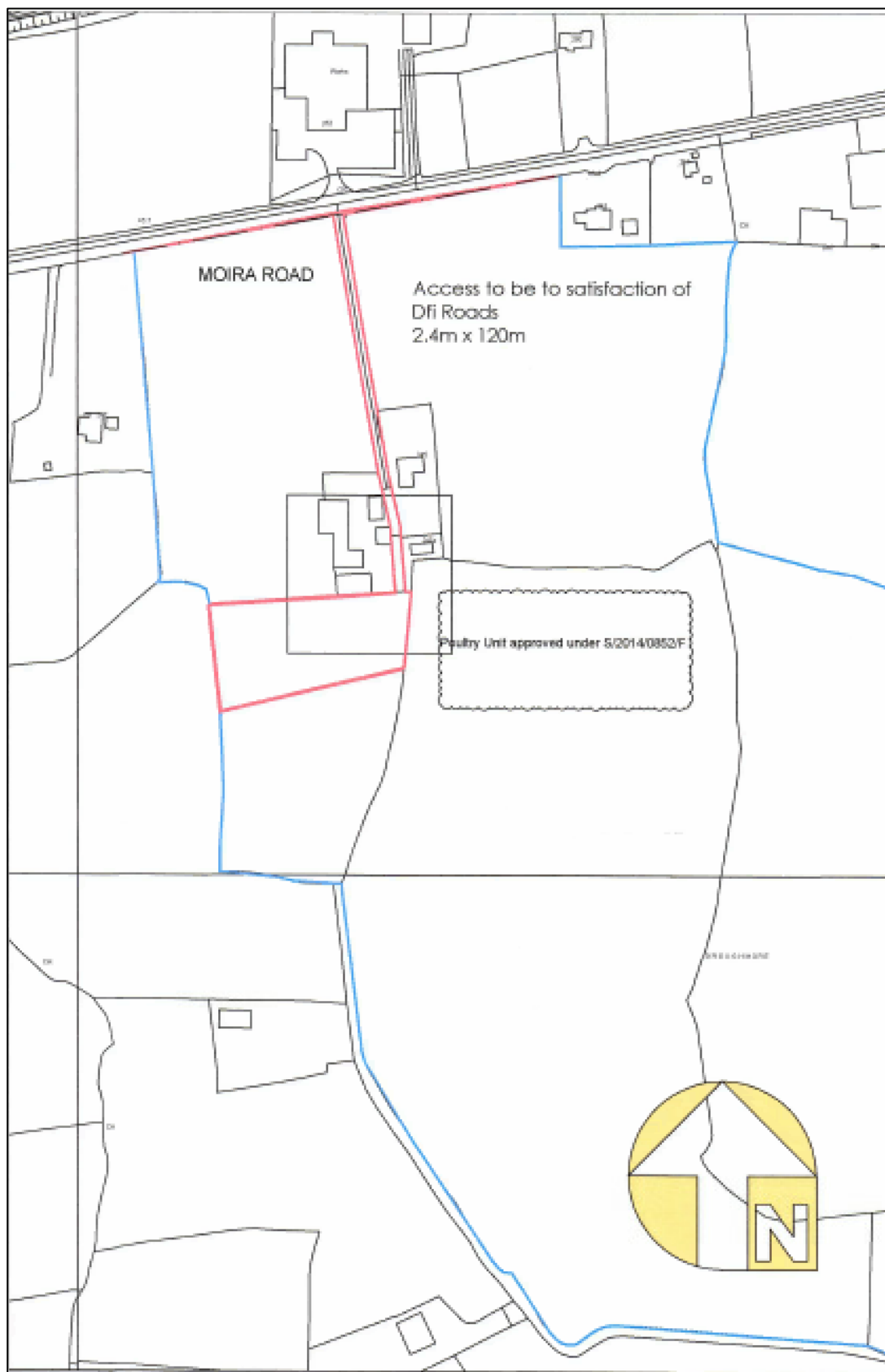
## Refusal Reasons

97. The following refusal reasons are recommended:

- The proposal is contrary to the SPPS, Policy CTY 1 and Policy CTY 9 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposal is for the provision of temporary residential accommodation pending the development of a permanent dwelling; there are compelling and site specific reasons illustrating that a residential caravan/mobile home is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.
- The proposal is contrary to the consequential amendment to policy AMP 3 of PPS 21 in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.



Site Location Plan – LA05/2022/0704/F



## Lisburn & Castlereagh City Council

|                           |   |
|---------------------------|---|
| Council/Committee         | Planning Committee  |
| Date of Committee Meeting | 06 March 2023   |
| Committee Interest        | Local Application (Called In)                                       |
| Application Reference     | LA05/2022/0707/F  |
| Proposal Description      | Proposed two-bedroom detached bungalow                              |
| Location                  | Adjacent and south of 30 Rosssdale Heights, Ballymaconaghy, Belfast |
| Representations           | None  |
| Case Officer              | Laura McCausland  |
| Recommendation            | <b>Refusal</b>  |

### Summary of Recommendation

1. This application is presented to the Planning Committee with a recommendation to refuse as the proposal is considered to be contrary to the SPPS and Policy QD1 (a) of Planning Policy Statement 7 - Quality Residential Environments in that it fails to respect the surrounding context and would if approved be detrimental to the character and appearance of the local area by virtue of its layout, form and design resulting in over development of the site.
2. The proposal is contrary to the SPPS and Policy QD1 (f) of Planning Policy Statement 7 - Quality Residential Environments in that adequate and appropriate provision is not made for parking for the proposed dwelling adjacent to 30 Rosssdale Heights. The dimensions of the parking are not to standard and the parking is in front of the building not typical of the character of the area.
3. The proposal is contrary to the SPPS and Policy LC1 (b) of the Addendum to PPS 7 - Safeguarding the Character of Established Residential Areas in that a dwelling at this location is not in keeping with the overall character and environmental quality of the established residential area.
4. The proposal is also contrary to the SPPS and Policy LC1 (c) of PPS 7 in that the pattern of development is not in keeping with the overall character and environmental quality of the established residential area and also fails the space standards associated with Annex A.

5. The proposal is contrary to the SPPS and policy AMP 2 of Planning Policy Statement 3 - Access, Movement and Parking in that it has not been demonstrated that the proposed access will not prejudice the safety and convenience of road users. The proposed access arrangements for the existing and proposed dwelling is not in keeping with the character of the area and the proposal will contribute to the creation of a quality residential environment.
6. The proposal is contrary to the SPPS and Policy AMP 7 of Planning Policy Statement 3 - Access, Movement and Parking in that, the development, if permitted would prejudice the safety and convenience of road users as adequate parking provision cannot be made clear of the highway for the parking of vehicles which would be attracted to the site.

## Description of Site and Surroundings

### Site

7. The application site is 0.022 hectares in size and the side garden of a semi-detached bungalow at 30 Rossdale Heights.
8. The land is relatively flat throughout and an existing single storey red brick garage with pitched roof and concrete roof tiles is also located towards the north eastern corner of the site.
9. The northern boundary abuts the property of 30 Rossdale Heights, the boundary to the east is defined by a 2 metre high close boarded timber fence, to the south a pin kerb defines the boundary with the neighbouring dwelling and to the west a road kerb defines the edge of a shared service access road. A street lighting column located within the site is likely to be in an existing service strip.

### Surroundings

10. The application site is located within an urban context. The established character of the immediate surrounding area is residential in nature and comprised entirely of suburban one and two-storey semi-detached red bricked dwellings with gardens front and rear. Detached garages are typically located to the side and rear of existing properties. All of the properties have in curtilage parking to the side of the dwelling.

## Proposed Development

11. Full planning permission is sought for a two bed detached bungalow.

**Relevant Planning History**

12. The planning history associated with the application site is set out in the table below:

| Reference Number | Description   | Location  | Decision               |
|------------------|---|---|------------------------|
| Y/2007/0181/F    | Site for a single detached bungalow (Amended plans) | Side garden of 30 Rossdale Heights, Ballymaconaghy, Belfast | Approval 28 April 2008 |

- 13. There is no evidence to indicate this earlier planning permission was commenced. It was not renewed and no CLUD is submitted.
- 14. The policy context is changed in the intervening period with the publication of the Strategic Planning Policy Statement [SPPS] and the Addendum to Planning Policy Statement 7 - Safeguarding the Character of Established Residential Areas.
- 15. For the reasons detailed in the two preceding paragraphs the planning history is of limited weight in the consideration of this proposal.

**Consultations**

16. The following consultations were carried out:

| Consultee            | Response     |
|----------------------|--------------|
| DfI Roads            | Objection    |
| NI Water             | No Objection |
| Environmental Health | No Objection |

**Representations**

17. No representations have been received in respect of the application.

## Planning Policy Context

### Relevant Policy and Guidance Documents

18. The relevant policy documents are:
- Belfast Urban Area Plan
  - The draft Belfast Metropolitan Plan 2015
  - The Regional Development Strategy 2035
  - The Strategic Planning Policy Statement (SPPS) 2015
  - Planning Policy Statement 3 (PPS 3) – Access, Movement and Parking
  - Planning Policy Statement 7 (PPS 7) – Quality Residential Environments
  - Addendum to Planning Policy Statement 7 – Safeguarding the Character of Established Residential Areas
  - Planning Policy Statement 12 (PPS 12) – Housing in Settlements
19. The relevant guidance is:
- Creating Places – Achieving Quality in Residential Developments
  - Development Control Advice Note 8 - Housing in Existing Urban Areas
  - Development Control Advice Note 15 - Vehicular Access Standards

### Local Development Plan Context

20. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on planning applications, regard must be had to the requirements of the local development plan and that determination must be in accordance with the plan unless material considerations indicate otherwise.
21. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
22. As a consequence, the Belfast Urban Area Plan 2001 is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
23. In both the statutory development plan and the draft BMAP, the application site is identified as within the defined Settlement Development Limit of Castlereagh.
24. In respect of draft BMAP, page 16 states that

*Planning Policy Statements (PPSs) set out the policies of the Department on particular aspects of land use planning and apply to the whole of Northern Ireland. Their contents have informed the Plan preparation and the Plan Proposals. They are material to decisions on individual planning applications (and appeals) within the Plan Area.*

*In addition to the existing and emerging suite of PPSs, the Department is undertaking a comprehensive consolidation and review of planning policy in*

*order to produce a single strategic planning policy statement (SPPS) which will reflect a new approach to the preparation of regional planning policy. The preparation of the SPPS will result in a more strategic, simpler and shorter statement of planning policy in time for the transfer of planning powers to Councils. Good practice guides and supplementary planning guidance may also be issued to illustrate how concepts contained in PPSs can best be implemented.*

### **Regional Policy Context**

25. The SPPS states that,

*Until the Council adopts the Plan Strategy for its new Local Development Plan, there will be a transitional period in operation.*

26. The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.
27. During this transitional period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.
28. In the case of proposals for residential development within settlements no conflict arises between the provisions of the Strategic Planning Policy Statement (2015) and the retained policy. Consequently, the retained planning policy provides the relevant policy context in this instance.
29. Paragraph 3.8 of the SPPS states that,  
*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.*
30. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.
31. Paragraph 4.11 of the SPPS states that,  
*There are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development.*

32. By way of example, it explains that the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development.
33. It also advises that the planning system can also positively contribute to improving air quality and minimising its harmful impacts. Additional strategic guidance on noise and air quality as material considerations in the planning process is set out at Annex A.

34. Paragraph 4.12 of the SPPS states that,

*Other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.*

35. It also advises that adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. The above mentioned considerations are not exhaustive and the planning authority is considered to be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

36. Paragraph 6.81 states that

*The planning system has a key role in achieving a vibrant economy. In this regard, the aim of the SPPS is to facilitate the economic development needs of Northern Ireland in ways consistent with the protection of the environment and the principles of sustainable development.*

### **Quality Residential Environments**

37. PPS 7 – Quality Residential Environments sets out the Department’s planning policies for achieving quality in new residential development and advises on the treatment of this issue in development plans. It embodies the Government’s commitment to sustainable development and the Quality Initiative.
38. Policy QD 2 Design Concept Statements, Concept Masterplans and Comprehensive Planning states that,

*The Department will require the submission of a Design Concept Statement, or where appropriate a Concept Master Plan, to accompany all planning applications for residential development.*

39. Policy QD 1 Quality in New Residential Development states that,

*Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development*

*should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.*

*In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.*

40. Within Policy QD 1 all proposals for residential development will be expected to conform to all of the following criteria:

- (a) *the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;*
- (b) *features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;*
- (c) *adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;*
- (d) *adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;*
- (e) *a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;*
- (f) *adequate and appropriate provision is made for parking;*
- (g) *the design of the development draws upon the best local traditions of form, materials and detailing;*
- (h) *the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and*
- (i) *the development is designed to deter crime and promote personal safety.*

*Any proposal for residential development which fails to produce an appropriate quality of design will not be permitted, even on land identified for residential use in a development plan.*



## Safeguarding the Character of Established Residential Areas

41. The Addendum to PPS 7 relates to safeguarding the character of established residential areas and Policy LC1 (Protecting Local Character, Environmental Quality and Residential Amenity) states,

*that in established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:*

- (a) the proposed density is not significantly higher than that found in the established residential area;*
- (b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area; and*
- (c) all dwelling units and apartments are built to a size not less than those set out in Annex A.*

### Annex A: Space Standards

| Space Standards <sup>3</sup> |   |                                 |                                   |
|------------------------------|---|---------------------------------|-----------------------------------|
| Type                         | Single Storey / Flat<br>(m <sup>2</sup> ) | Two Storey<br>(m <sup>2</sup> ) | Three Storey<br>(m <sup>2</sup> ) |
| 1-Person / Bedsit            | 30/35                                     | -                               | -                                 |
| 1-Person / 1-Bedroom         | 35/40                                     | -                               | -                                 |
| 2-Person / 1-Bedroom         | 50/55                                     | -                               | -                                 |
| 3-Person / 2-Bedroom         | 60/65                                     | 70/75                           | -                                 |
| 4-Person / 2-Bedroom         | 70/75                                     | 75/80                           | -                                 |
| 4-Person / 3-Bedroom         | 75/80                                     | 80/85                           | -                                 |
| 5-Person / 3-Bedroom         | 80/85                                     | 90/95                           | 95/100                            |
| 6-Person / 3-Bedroom         | 85/90                                     | 95/100                          | 100/105                           |
| 6-Person / 4-Bedroom         | 90/95                                     | 100/105                         | 105/110                           |
| 7-Person / 4-Bedroom         | 105/110                                   | 115/120                         | 115/120                           |

(Extract from DSD's Housing Association Guide 2009: Design Standards)

## Creating Places

42. Creating Places – Achieving Quality in Residential Developments (May 2000) is the principal guide for use by intending developers in the design of all new housing areas.
43. The guide is structured around the process of design and addresses the following matters:
  - The analysis of a site and its context
  - Strategies for the overall design character of a proposal
  - The main elements of good design
  - Detailed design requirements

## Access, Movement and Parking

44. PPS 3 - Access, Movement and Parking and PPS 3 (Clarification), set out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.
45. Policy AMP 2 – Access to Public Roads states that,

*Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:*

  - a) *such access will not prejudice road safety or significantly inconvenience the flow of traffic; and*
  - b) *the proposal does not conflict with Policy AMP 3 Access to Protected Routes.*

## Development Control Advice Note 15 – Vehicular Access Standards

46. Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 that

*The Department's Planning Policy Statement 3 "Development Control: Roads Considerations" (PPS3) refers to the Department's standards for vehicular accesses. This Development Control Advice Note (DCAN) sets out and explains those standards.*

## Assessment

47. No design concept statement is provided in support of this application in accordance with policy QD2. Additional supporting evidence was requested to justify the proposal but only an e-mail was received to say the minimum space requirements were met in accordance with the Creating Places document and that the planning history was a significant material consideration.
48. Whilst a reason for refusal is offered in terms of this policy the absence of proper consideration of the context and assessment of the character is reflected in the subsequent assessment of policy QD 1.
49. The proposed development seeks permission for a two-bedroom detached bungalow with velux windows at roof level on the northern side. The front door is on the side elevation facing the gable of 31 Rossdale Heights.
50. In terms of materials and finishes, the walls are to be finished in smooth off white render with concrete roof tiles with black PVC windows/rainwater goods.
51. The parking is shown to the front of the property with a narrow strip of garden provided to the front of the proposed dwelling adjacent to 30 Rossdale Heights. There is also a garden to the rear.

### Quality Residential Environments

52. Within the context of criteria (a), the surrounding context is residential in nature and comprised entirely of single, storey and half and two storey semi-detached red bricked dwellings. All properties have in curtilage parking normally to the side of the dwelling.
53. The layout was specifically designed to facilitate the transition from a traditional road with a carriageway and footpaths to a shared service road. As a consequence the plot at 30 Rossdale Heights is slightly larger than the neighbouring properties.
54. The proposed development is not appropriate to the site context and will change the character of the cul-de-sac by inserting a building into a restricted plot not typical of the street with parking in front and a rear garden of restricted depth and size.
55. The separation distance to the bungalow at 30 at its narrowest point is 2.4 metres and to 31 at the narrowest point is 5.6 metres. The distance from 62 Knockbraken Manor and 64 Knockbraken Manor are 16.4 metres and 16 metres respectively.

56. The spacing between the proposed dwelling and adjacent properties is significantly less than other buildings in this suburban context and more typical of an inner urban setting.
57. If the site was developed as proposed added to the existing unit at 30 it would result in town cramming which is not quality residential environment.
58. The main access for the proposed dwelling faces directly onto the 1.8 metres closed boarded fence between it and 31 at a distance of around 0.8 metres. Whilst many other dwellings in the area have a side entrances, they are much more open onto existing driveways.
59. The crammed appearance is representative of overdevelopment and it makes for an unsatisfactory relationship between the proposed and existing buildings and wholly inadequate separation distances which would be harmful to the general amenity and local character of the area.
60. In terms of criteria (b), there are no features of the archaeological and built heritage impacted on by the proposed development.
61. In terms of criteria (c) the site plan provided indicates that the private amenity space as shown to the rear of the dwelling is 44.8 square metres. This includes the small slivers of land down the side of the dwelling which are unusable. It is assessed that the amount of usable amenity provision is somewhere closer to 37.35 square metres which is less than the 40 square metres suggested in the Creating Places document and typical of a suburban location.
62. This proposed development also results in a significant reduction in the available amenity space for 30 Rossdale Heights reducing its private amenity space from approximately 100 square metres to approximately 48 square metres. The amount of amenity space proposed for the two dwellings is not typical of the setting and again representative of overdevelopment. It is considered that the proposal will not provide acceptable 'private' amenity space and the proposal fails to meet Policy QD1 (c) of PPS7.
63. In terms of criteria (d) and (e) there are local established neighbourhood facilities in close proximity to the site and the site has a network of footpaths to allow for walking and cycling and the convenient movement of traffic. The site is also well served by public transport and is within walking distance to Cairnshill Park and Ride.
64. In respect of criteria (f) adequate and appropriate provision is not made for parking for the proposed dwelling adjacent to 30 Rossdale Heights. The dimensions of the parking are not to standard and the parking is in front of the building not typical of the character of the area.
65. With regard to criteria (g) the buildings are typical of a suburban location and not of best local tradition. The materials proposed and detailing of the design

is consistent with those found in the buildings in the local context. The requirements of this criteria are met.

66. With regard to criteria (h) whilst the spacing of the buildings is not appropriate to the context and harms the character of the area there is no direct overlooking into the neighbouring buildings. The scale and massing of the dwelling is not so large that it is dominant and overbearing or would result in the loss of daylighting.
67. With regard to criteria (i), there is passive surveillance of the street and the private areas are secure on three sides. The proposal is designed to deter crime or promote personal safety.

#### Safeguarding the Character of Established Residential Areas

68. In established residential areas planning permission will only be granted for the redevelopment of existing buildings or the infilling of vacant sites (including extended garden areas) to accommodate new housing where all of the criteria in policy QD1 of PPS 7 and all the additional criteria set out below are met.
69. With regards criteria (a) it is not considered that the addition of one dwelling will not result in a density that is 'significantly higher' than the surrounding found in the immediate or wider context of the site.
70. In relation to criteria (b) and when considered within the context of the immediate area as described in the previous section of this report it is considered that the proposed development is out of character of the residential areas in terms of the established pattern of development and site layout. As a consequence the requirement of policy LC 1(b) of the Addendum to PPS 7 has not been met.
71. With regard to criteria (c) the space standards set out in Annex A requires new dwellings units to comply with a minimum standard to ensure that adequate living conditions are provided. The space standard being a calculation of internal floor area.
72. The proposed internal floor space is measured at 51.04 metres squared. Annex A gives parameters for a 3 person 2 bedroom single storey house to be 60/65 metres squared and a 4 person 2 bedroom single storey house to be 70/75 metres squared.
73. There are two bedrooms shown on the floor plan with double beds. The proposal fails to meet the minimum space standards in Annex and is not in accordance with criteria LC1 (c).

### Access, Movement and Parking

74. Detail submitted with the application indicates that access arrangements for this development involve the alteration of an existing access to a public road for both vehicular and pedestrian use.
75. Advice from DfI Roads received on the 13 October 2022 advised that the application was unacceptable as submitted as insufficient detail is available on transportation issues.
76. The agent was requested to provide:
- a 'Clear Fully Dimensioned Engineering Drawing' showing the access and parking, i.e. visibility splays, forward sight lines and access width dimensions to the requirements of the Department's Development Control Advise Note 15.
  - parking spaces properly dimensioned – 6.0 metres in length x 5.3 metres wide with an additional 0.9 metres wide to allow access to the dwelling, as per Creating Places standards for in curtilage parking.
  - Indicate all obstacles located within the splays, which need to be removed/relocated, i.e. a tree, etc.
77. Despite the agent being made aware of the need for additional information to be provided to demonstrate that a safe access and adequate parking could be provided, no detail has been received.
78. In the absence of information being provided, it is considered that the applicant has failed to demonstrate that the development will not prejudice road safety or significantly inconvenience the flow of traffic and is not in accordance with the requirements of policy AMP 2. The proposed access arrangements for the existing and proposed dwelling is not in keeping with the character of the area and the proposal will contribute to the creation of a quality residential environment.
79. The requirements of policy AMP 7 are also not met in that the development, if permitted would prejudice the safety and convenience of road users as adequate parking provision cannot be made clear of the highway for the parking of vehicles which would be attracted to the site.

### **Conclusions**

80. This application is considered to be contrary to the SPPS and Policy QD1 (a) of Planning Policy Statement 7 - Quality Residential Environments in that it fails to respect the surrounding context and would if approved be detrimental to the character and appearance of the local area by virtue of its layout, form and design resulting in overdevelopment of the site.

81. The proposal is contrary to the SPPS and Policy QD1 (f) of Planning Policy Statement 7 -Quality Residential Environments in that insufficient information has been provided to demonstrate that adequate and appropriate provision can be made for parking.
82. The proposal is contrary to the SPPS and Policy LC1 (b) of the Addendum to PPS 7 - Safeguarding the Character of Established Residential Areas in that the pattern of development is not in keeping with the overall character and environmental quality of the established residential area.
83. The proposal is also contrary to the SPPS and Policy LC1 (c) of PPS 7 in that the pattern of development is not in keeping with the overall character and environmental quality of the established residential area and also fails the space standards associated with Annex A.
84. The proposal is contrary to the SPPS and Policy AMP 2 of Planning Policy Statement 3 - Access, Movement and Parking in that it has not been demonstrated that the proposed access will not prejudice the safety and convenience of road users.
85. The proposal is contrary to the SPPS and Policy AMP 7 of Planning Policy Statement 3 - Access, Movement and Parking in that, in the development, if permitted would prejudice the safety and convenience of road users as insufficient information has been provided to demonstrate that adequate parking provision can be made clear of the highway for the parking of vehicles which would be attracted to the site.

### Recommendations

86. The application is presented with recommendation to refuse.

### Refusal Reasons

87. The following refusal reasons are recommended;
  1. This application is presented to the Planning Committee with a recommendation to refuse as the proposal is considered to be contrary to the SPPS and Policy QD1 (a) of Planning Policy Statement 7 - Quality Residential Environments in that it fails to respect the surrounding context and would if approved be detrimental to the character and appearance of the local area by virtue of its layout, form and design resulting in overdevelopment of the site.
  2. The proposal is contrary to the SPPS and Policy QD1 (f) of Planning Policy Statement 7 - Quality Residential Environments in that insufficient in that adequate and appropriate provision is not made for parking for the

proposed dwelling adjacent to 30 Rossdale Heights. The dimensions of the parking are not to standard and the parking is in front of the building not typical of the character of the area.

3. The proposal is contrary to the SPPS and Policy LC1 (b) of the Addendum to PPS 7 - Safeguarding the Character of Established Residential Areas in that a dwelling at this location is not in keeping with the overall character and environmental quality of the established residential area.
4. The proposal is also contrary to the SPPS and Policy LC1 (c) of PPS 7 in that the pattern of development is not in keeping with the overall character and environmental quality of the established residential area and also fails the space standards associated with Annex A.
5. The proposal is contrary to the SPPS and policy AMP 2 of Planning Policy Statement 3 - Access, Movement and Parking in that it has not been demonstrated that the proposed access will not prejudice the safety and convenience of road users. The proposed access arrangements for the existing and proposed dwelling is not in keeping with the character of the area and the proposal will contribute to the creation of a quality residential environment.
6. The proposal is contrary to the SPPS and Policy AMP 7 of Planning Policy Statement 3 - Access, Movement and Parking in that, the development, if permitted would prejudice the safety and convenience of road users as adequate parking provision cannot be made clear of the highway for the parking of vehicles which would be attracted to the site.



Site Location Plan – LA05/2022/0707/F



location map - scale 1:1250

**Lisburn & Castlereagh City Council**

|                           |   |
|---------------------------|---|
| Council/Committee         | Planning Committee  |
| Date of Committee Meeting | 06 March 2023   |
| Committee Interest        | Local Application (Called In)                                     |
| Application Reference     | LA05/2022/0482/RM   |
| Date of Application       | 12/05/2022  |
| District Electoral Area   | Downshire East  |
| Proposal Description      | Proposed Dwelling with detached garage                            |
| Location                  | Site SW of No.7 Pot Hill Lane, Lisburn, BT27 6TJ.                 |
| Representations           | Three(all the representations are received from the same address) |
| Case Officer              | Laura McCausland  |
| Recommendation            | <b>Approval</b>   |

**Summary of Recommendation**

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with the Protocol for the Operation in that it has been Called In.
2. The siting, design and external appearance of the buildings, the means of access and proposed landscaping is submitted in accordance with the conditions of the outline planning permission and acceptable as the buildings are designed to visually integrate into the surrounding landscape without causing a detrimental change to the rural character of the area.
3. The requirements of policies CTY 13 and 14 are met insofar as they relate to the matters reserved for approval at the outline application stage. The design is also in accordance with the guidance contained in the Building on Tradition document for the reasons outlined in the report.
4. The access arrangements are also considered to be acceptable for the reasons outlined above with no prejudice to road safety or inconvenience to road users likely to occur. The design of the access is in accordance with the requirements of policy AMP2 of PPS3.

**Description of Site and Surroundings**

**Site**

- 5. The site is a 0.1 hectare square shaped plot located on agricultural land southwest of 7 Pot Hill Lane and is accessed via a laneway directly from the Pot Hill Lane via the Old Ballynahinch Road. The driveway partially runs parallel with a lane that serves property number 8.
- 6. The topography rises from the road to the rear of the site in a north westerly direction and falls gradually from north eastern to western direction.
- 7. The site boundaries are comprised of post and wire fence and native species hawthorn/ blackthorn hedge to the north western boundary. The north eastern and south eastern boundary is undefined and part of the eastern boundary is defined by a hawthorn/blackthorn hedge.

**Surroundings**

- 8. The surrounding area is in open countryside outside the settlement of Lisburn. The area is mainly rural in character and the land in agricultural use. There is some evidence of a build-up of development in the immediate area single dwellings, farm dwellings, farm holdings.

**Proposed Development**

- 9. This application is for a dwelling with detached garage in courtyard arrangement.

**Relevant Planning History**

- 10. The planning history associated with the application site is set out in the table below:

| Reference Number | Description   | Location                                | Decision             |
|------------------|---|---|----------------------|
| LA05/2018/0989/O | Proposed single storey dwelling and detached garage | Site SW of no. 7 Pot Hill Lane, Lisburn | Approval 21 May 2019 |

- 11. The above outlined planning history illustrates that the principle of a farm dwelling had been accepted by the Council..

12. The requirement to meet policies CTY 1 and CTY 10 is not revisited in this report. The assessment that follows is made having regard to the relevant planning policies and guidance documents that apply to the detail of the siting, layout design and other matters reserved by condition.

**Consultations**

13. The following consultations were carried out:

| Consultee               | Response     |
|-------------------------|--------------|
| DFI Roads               | No objection |
| NIEA (Natural Heritage) | No objection |
| NI Water                | No objection |
| Environmental Health    | No objection |
| Rivers Agency           | No objection |

**Representations**

14. Three representations have been received in respect of this application all of which are from a single address at 9 Pot Hill Lane and the persons are objecting to the proposal:

15. The representations are available to view on the Planning Portal via the following link:

<https://epicdocs.planningni.gov.uk/ShowCaseFile.aspx?guid=8765a879-3bf3-4362-bb9f-f525014de9cd>

16. In summary, the following issues are raised:

- The site as approved is not in the same location as originally submitted
- Neighbours not consulted
- Drawing 01A planning approval does not show the change of site referred to
- Farm business not active and established and outline should have been refused. Disagree with previous case officer assessment of active farm
- Land has been in conacre for over 50 years

- Fails to comply with CTY13, (a) 7m inappropriate height, (b) site lacks established boundaries and (c) disagree with previous case officer's assessment of boundaries.
  - Wrong size of site proposed
  - Footprint excessive
  - Design out of keeping with other dwellings
  - Garage too large
  - Too much excavation required to accommodate proposal
  - Levels provided by agent inadequate
  - Access should be taken from existing lane
  - Inconsistency from DFI Roads regarding required visibility splays
  - Overlooking from external staircase
17. The issues raised in these representations have been considered as part of the assessment of this proposal.

## Planning Policy Context

### Relevant Policy and Guidance Documents

18. The relevant policy documents are:
- The Strategic Planning Policy Statement (SPPS), published in September 2015
  - Planning Policy Statement 21 – Sustainable Development in the Countryside
  - Planning Policy Statement 2 – Natural Heritage
  - Planning policy Statement 3 – Access, Movement and Parking
19. The relevant guidance is:
- Building on a Tradition
  - Development Control Advice Note 15 - Vehicular Access Standards
20. The SPPS states that,
- until the Council adopts the Plan Strategy for its new Local Development Plan, there will be a transitional period in operation.*
21. The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.
22. During this transitional period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.
23. Paragraph 3.8 of the SPPS states

*that 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.*

24. In practice this means that development which accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. As the statutory plan and draft BMAP are silent on the regional policy issue, no determining weight can be given to those documents.
25. As previously stated this an application for approval of reserved matters and the principle of development is not revisited.
26. Paragraph 6.77 of the SPPS states that

*In all circumstances proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings, must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety. Access arrangements must be in accordance with the Department's published guidance.*

27. Paragraph 6.78 of the SPPS states that

*supplementary planning guidance contained within Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside must be taken into account in assessing all development proposals in the countryside.*

### **Building on Tradition**

28. Whilst not policy, and of lesser weight as a guidance document, the SPPS states that regard must be had to this guidance in assessing the proposal.
29. This guidance notes at paragraph 4.1.0 that

*A core requirements of much of the development covered by PPS 21 is that it is integrated within (and in particular instances visually linked to) the countryside and/or other established buildings.*

### **PPS 21 - Sustainable Development in the Countryside**

30. PPS 21 – Sustainable Development in the Countryside sets out planning policies for development in the countryside and lists the range of development which in principle is considered to be acceptable and contribute to the aims of sustainable development.

### Integration and Design of Buildings in the Countryside

31. In respect of the matters reserved Policy CTY 13 – Integration and Design of Buildings in the Countryside states that: *planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.*
32. The policy states that a new building will be unacceptable where: (a) *it is a prominent feature in the landscape; or*  
(b) *the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*  
(c) *it relies primarily on the use of new landscaping for integration; or*  
(d) *ancillary works do not integrate with their surroundings; or*  
(e) *the design of the building is inappropriate for the site and its locality; or*  
(f) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*  
(g) *in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

### Rural Character

33. Policy CTY 14 – Rural Character states  
*that planning permission will be granted for a building(s) in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.*
34. The policy states that  
*A new building will be unacceptable where:*  
(a) *it is unduly prominent in the landscape; or*  
(b) *it results in a suburban style build-up of development when viewed with existing and approved buildings; or*  
(c) *it does not respect the traditional pattern of settlement exhibited in that area; or*  
(d) *it creates or adds to a ribbon of development (see Policy CTY 8); or*  
(e) *the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.*
35. With regard to Policy CTY 14, Building on Tradition [page 131] states that  
*Where appropriate, applications for buildings in the countryside should include details for site works, retention or reinstatement of boundaries, hedges and walls and details of new landscaping.*

*Applicants are encouraged to submit a design concept statement setting out the processes involved in the site selection and analysis, building design, and should consider the use of renewable energy and drainage technologies as part of their planning application.*

36. Policy CTY 16 - Development Relying on Non-Mains Sewerage states

that Planning Permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.

37. The policy also states that:

*Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made.*

*In those areas identified as having a pollution risk development relying on non-mains sewerage will only be permitted in exceptional circumstances.*

38. With regards to Policy CTY16, Building on Tradition [page 131] states that

*If Consent for Discharge has been granted under the Water (Northern Ireland) Order 1999 for the proposed development site, a copy of this should be submitted to accompany the planning application. This is required to discharge any trade or sewage effluent or any other potentially polluting matter from commercial, industrial or domestic premises to waterways or underground strata. In other cases, applications involving the use of non-mains sewerage, including outline applications, will be required to provide sufficient information about how it is intended to treat effluent from the development so that this matter can be properly assessed. This will normally include information about ground conditions, including the soil and groundwater characteristics, together with details of adjoining developments existing or approved. Where the proposal involves an on-site sewage treatment plant, such as a septic tank or a package treatment plant, the application will also need to be accompanied by drawings that accurately show the proposed location of the installation and soakaway, and of drainage ditches and watercourses in the immediate vicinity. The site for the proposed apparatus should be located on land within the application site or otherwise within the applicant's control and therefore subject to any planning conditions relating to the development of the site.*

### **Natural Heritage**

39. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.
40. Policy NH2 - Habitats, Species or Features of Natural Heritage Importance states that



*Planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:*

- *priority habitats;*
- *priority species;*
- *active peatland;*
- *ancient and long-established woodland;*
- *features of earth science conservation importance;*
- *features of the landscape which are of major importance for wild flora and fauna;*
- *rare or threatened native species;*
- *wetlands (includes river corridors); or*
- *other natural heritage features worthy of protection.*

41. The policy also states that

*A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features may only be permitted where the benefits of the proposed development outweigh the value of the habitat, species or feature. In such cases, appropriate mitigation and/or compensatory measures will be required.*

#### **Access, Movement and Parking**

42. PPS 3 - Access, Movement and Parking sets out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.

43. Policy AMP 2 – Access to Public Roads states that

*planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:*

- a) *such access will not prejudice road safety or significantly inconvenience the flow of traffic; and*
- b) *the proposal does not conflict with Policy AMP 3 Access to Protected Routes.*

44. Paragraph 5.16 of the Justification and Amplification to Policy AMP 2 states

*Development Control Advice Note 15 'Vehicular Access Standards' sets out the current standards for sightlines, radii, gradient etc. that will be*

*applied to both new access and intensified use of an existing vehicular access onto existing public roads. DCAN 15 also includes guidance on special requirements for access onto a Trunk Road. The current standards for access within new residential developments are set out in the 'Creating Places' design guide.*

### **Development Control Advice Note 15 – Vehicular Access Standards**

45. Development Control Advice Note 15 – Vehicular Access Standards states at paragraph 1.1 that

*The Department's Planning Policy Statement 3 "Development Control: Roads Considerations" (PPS3) refers to the Department's standards for vehicular accesses. This Development Control Advice Note (DCAN) sets out and explains those standards.*

### **Assessment**

46. An application for approval of reserved matters is made in accordance with the conditions of the outline permission for the reasons detailed in the below paragraphs.
- **Condition 1 - Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-**
    - i. **the expiration of 5 years from the date of this permission;**
    - or**
    - ii. **the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.**
58. This application for approval of reserved matters was made to the Council on 12 May 2022 which was before the expiry date of 20 May 2022. This condition is considered to be met.
- **Condition 2 - Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.**
59. The matters reserved in this condition must be considered against the relevant planning policy tests and the detailed siting and design of the building must have regard to the site context and surroundings and to

other planning and environmental considerations as specified in the application such as the method for the disposal of waste.

60. Each of the matters reserved by this condition are dealt with below:

Siting

47. Despite being across the road from the farm holding and set back 60 metres from Pot Hill Road, the proposed siting is consistent with the concept considered at outline planning application stage and inside the area shaded yellow.
48. This was the closest available location given the constraints on the opposite side of the road and a dwelling at this location is still considered to be visually linked and sited to cluster with the farm buildings from all public vantage points along 200 metres distance of the Pot Hill Lane either side of the site. Thus the proposed siting is regarded to be acceptable.
49. The plot is similar in size to that of neighbouring plots and the position of the dwelling, set back from the roadside reflects the established pattern of development locally.
50. The layout is reflective of the immediate locality in that the dwelling is orientated to face the lane. The garage is detached with an area of parking shown to the front and side of the site.
51. Due to the narrowness of this part of Pot Hill Lane and proximity of the proposed development to the bend, the proposed development can only be seen from shorter distances along the eastern approach.
52. The development from a western approach is viewed with other neighbouring development and as such, is not considered to be prominent in the landscape.
53. The siting of the dwelling within the site takes account of the existing topography and a condition restricting the ridge height to be less than 7 metres above finished floor level is complied with.
54. The proposed building is visually integrated into the site taking account of the existing characteristics of the site and having regard to the local context.
55. The condition in so far as it relates to siting is considered to be met and the proposed siting is in accordance with criteria (a), (b) and (e) of policy CTY 13 and the requirements of policy CTY 14.
56. A treatment tank and soakaway is shown to be sited to the south east of the dwelling on land outside the red line boundary but within the blue line.

This siting is considered to be acceptable and the detail confirms that the proposal will not cause a pollution problem consistent with Policy CTY 16.

### Design and External Appearance of the Buildings

57. To take account of the existing levels, the proposed building is designed with a single storey elevation of 6.3 metres to the road. A glazed link extending to the south west connect to a two storey projection to the rear which is on lower ground. This front elevation has a pitched roof with a chimney along the ridge line. The proposed ridge height from finished floor level are considered acceptable. Utilising the existing topography is consistent with guidance set out in Building on Tradition.
58. An L-shaped layout is proposed.. The ground floor associated with the front elevation provides for a dining area, lounge area and living space. A two way staircase provides access to an upper floor level which provides for an open plan loft area with eaves storage. Clarification provided by the Agent indicates that this space is intended to be used as an entertainment space as opposed to bedroom accommodation.
59. The area associated with the glazed link provides for an open planned kitchen area with access through to the two storey element which provides for a utility space, study, bathroom facilities and fourth bedroom.
60. A stairway located centrally along this area provides access to the second floor which provides for a bathroom and three additional bedrooms, one with a dressing room and master ensuite. The bedroom annotated as the master bedroom has also an external access. The layout of the main dwelling is typical of most large detached houses in the open countryside.
61. The external steps are commonly found as features on outbuildings. . Clarification from the Agent and it is explained that the external steps are both an aesthetic design detail and have a functional purpose as the future residents do shift work. The external access allows the occupier to exit the property early from the master bedroom without disturbing the rest of the house.
62. The proposed buildings are laid out to allow for a separation distance to 6 Pothill Lane of approximately 80 metres, it is deemed that the proposed development will not create an adverse impact on the residential amenity of the neighbour in terms of overlooking, overshadowing or loss of light.
63. The proposed materials comprise non-profiled grey rainwater goods, slate roof tiles, smooth white render panels with white UPVC windows and duck-egg timber painted doors.
64. Proposed materials of the garage are; non profiled slate-grey rainwater goods grey upvc, field stone walls, white upvc windows and doors with timber sheeting painted duck egg blue doors.

65. The traditional design and external appearance of the proposed dwelling and garage is considered acceptable and consistent with guidance set out in Building on a Tradition. It is also considered to be reflective of surrounding development within the immediate and wider locality.
66. For the reasons outlined above, this part of the condition is considered to be met and to be in accordance with the requirements of criteria (c) of policy CTY 13.

#### Means of Access

67. In terms of access arrangements, the proposed dwelling is to be accessed via a driveway to the front of the property directly via the Pot Hill Lane from the Old Ballynahinch Road.
68. A 1:500 scale plan (Site Plan) has been submitted with the access shown to be in accordance with the RS 1 form. The plan demonstrates that access arrangements can be provided in accordance with published standards in DCAN 15 (as required in paragraph 6.77 the SPPS and footnote 27).
69. Detail submitted with the site layout plans demonstrate that three in-curtilage parking spaces are to be provided which is normal for a dwelling of the size.
70. DFI Roads has considered the detail of the application and offer no objection on the grounds of road safety or traffic impact. There is no reason for the Council to disagree with this advice.
71. Based on a review of the detail and advice received from DFI Roads, it is accepted that a safe means of access can be provided consistent with Policy AMP 2 and PPS 3 and that the ancillary works associated with the provision of the new access will not impact the rural character consistent with Policy CTY 14. This part of the condition is met in full.

#### Landscaping

72. The site layout plan received on 03 October 2022 shows the location of existing and proposed planting. The existing hawthorne hedge to the south west boundary is to be retained with new hawthorne/blackthorn mixed hedge proposed to all other boundaries including the access lane.
73. The location of additional feature planting comprising cherry and silver birch trees with dimensions is also annotated on this plan.
74. Tapering garden walls [0.75 metres in height] will serve as retaining structures to the rear of the site.

75. The new planting will enhance the visual amenity and attractiveness of the development whilst improving biodiversity value and aiding integration consistent with policy CTY 13. This part of the condition is considered to be met.
76. For the reasons outlined in the preceding paragraphs, it is accepted that the requirements of condition 2 have been met in full and the proposed design, layout and arrangement of the buildings is acceptable
- **Condition 3 – A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1.**
77. A 1:500 scale plan (Site Plan) has been submitted with the access shown to be in accordance with the RS 1 form. The plan demonstrates that access arrangements can be provided in accordance with published standards. This condition is considered to be met for the reasons detailed previously in this report.
- **Condition 4 –The dwelling shall not 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 3 spaces per dwelling.**
- The proposed site layout drawing demonstrates that an acceptable parking layout for at least three cars is available on the hardstanding area to the front and rear of the property albeit is noted that this condition requires the parking to be provided before the dwelling is occupied.
- **Condition 5 - Any existing street furniture or landscaping obscuring or located within the proposed carriageway, sight visibility or access shall, after obtaining permission from the appropriate authority, be removed, relocated or adjusted at the applicant's expense.**
78. The proposed plans indicate that one section of the existing roadside hedge is to be planted and set back of sightlines in accordance with access drawing and the other section on the other side of Pot Hill Lane remains without adjustment.
- **Condition 6 – The dwelling hereby permitted shall not be occupied until all new boundaries have been defined by a timber post and wire fence with a native species hedgerow/trees and shrubs of mixed woodland species planted on the inside.**
79. Landscaping details includes details of all new boundary planting and annotations indicated that the boundaries will be defined by timber post and wire fence with a native species hedgerow/trees and shrubs of mixed

woodland species to be planted on the inside as part of the wider landscaping plan would ensure that sufficient planting and screening of the application site is provided to protect the amenity of neighbouring properties.

80. This condition is capable of being met at the appropriate time.
- **Condition 7 – The existing natural screenings of his site shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal.**
81. A Landscaping plan and planting schedule has been submitted to Council indicating the existing and proposed planting. An additional condition will be added to prevent removal unless agreed in writing with Council which links to the condition imposed at the outline stage. This condition is capable of being met as required.
- **Condition 8 – if within a period of 5 years from the date of 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 at the same place, unless the Council gives its written consent to any variation.**
82. As above, a landscaping plan and planting schedule has been submitted. A condition will be imposed on the decision to prevent removal unless agreed in writing with Council. This condition is capable of being met as required.
- **Condition 9 – No development shall take place until a plan of the site has been submitted to and approved by the Council indicating the existing and proposed contours, and finished floor level(s) of the proposed building(s) and the position, height, and materials of any retaining walls. Development shall be carried out in accordance with the approved plans.**
83. A plan has been submitted to Council indicating the existing and proposed contours and finished floor levels. This condition has been met.
- **Condition 10 – The dwelling hereby permitted shall not be occupied until all new boundaries have been defined by a timber post and wire fence with a native species hedgerow/trees and shrubs of mixed woodland species planted on the inside.**
84. As above, a landscaping plan and planting schedule has been submitted. A condition will be imposed on the decision to ensure that new boundaries are defined within appropriate timescales prior to occupation. This condition is capable of being met.

## Consideration of Representations

85. Three letters of objection from the same address have been received in respect of this application. Consideration of the issues raised is set out below:

### Principle of development

86. Concern expressed in relation to the principle of development is not given determining weight in the assessment of this application. This application seeks to deal with the approval of reserved matters. There is no requirement to revisit the principle of development.

### Neighbour notification

87. Concern has been expressed in relation to the neighbour notification process. Neighbour notification has been carried out in accordance with legislative requirements. The correct neighbours are notified and the addresses checked on site. The Council retain a copy of the notification letter on the file.

### Ownership Challenge

88. Ownership and P2A Challenge was made whereby the view is expressed that an additional party is in ownership of the lane. No evidence from the objector has been submitted to support this claim.
89. The agent has submitted a copy of P2A Form date stamp dated 4<sup>th</sup> May 2022. Part C is completed and the Agent has provided confirmation that this information is correct. The issue of ownership is a civil matter and in the absence of evidence to the contrary, the issues raised are of limited material weight in the assessment of this application.

### Fails to Comply with CTY 14

90. The view is expressed that the development fails to comply with Policy CTY14 in that, the footprint is excessive and when viewed along the lane dominates the landscape.
91. The site is considered to be large enough to absorb the proposed development without resulting in a detrimental change to, or further erode the rural character of an area.
92. Although the properties at 9 and 7 are road side development the proposed dwelling is shown to be set back from the Pot Hill Lane in line with those at 6 and 4 and for this reason, it is not regarded as prominent in the landscape.



### Out of Keeping

93. Concern is expressed that the design is out of keeping with other dwellings located around the development.
94. For the reasons outlined above within the context of condition 2, the proposed design is considered to be in keeping with guidance set out in Building on a Tradition in terms of its scale, layout and materials.

### Fails to comply with Policy CTY 13

95. Concern is expressed that the proposal fails to comply with Policy CTY13 as the proposal relies on new landscaping and the removal of mound to accommodate development is excessive.
96. As explained above, the dwelling will be viewed against an existing back drop of development. The site is bounded on two sides by existing planting which is annotated on the layout plan to be retained. Additional planting will further assist with integration in to the landscape.
97. The existing and proposed levels are clearly shown on proposed site layout and are considered to be acceptable change in levels across the site ranging in difference from 0.5 -1.0 metres where the proposed dwelling is to be sited. The dwelling is designed to take account of the topography of the site consistent with guidance set out in Building on Traditions.

### Road Safety Concerns

98. Concern is expressed in relation to inconsistent advice from DfI Roads regarding sight splay standards. As explained above, DfI Roads has considered the detail and offers no objection to the proposal on the grounds of road safety. There is no contrary evidence presented and the Council has no reason to disagree with the advice of the statutory consultee.

### Overlooking

99. Concern is expressed that the flat roof associated with the glazed link may create a clear view of their property. The view is also expressed that the external staircase should be removed.
100. The property at 9 Pothill Lane is approximately 80 metres distant. It is considered that there is sufficient separation so as not to create any negative impact upon residential amenity to number 9 by virtue of overlooking or loss of privacy.

## Conclusions

101. The siting, design and external appearance of the buildings, the means of access and proposed landscaping is submitted in accordance with the conditions of the outline planning permission and acceptable as the buildings are designed to visually integrate into the surrounding landscape without causing a detrimental change to the rural character of the area.
102. The requirements of policies CTY 13 and 14 are met insofar as they relate to the matters reserved for approval at the outline application stage. The design is also in accordance with the guidance contained in the Building on Tradition document for the reasons outlined in the report.
103. The access arrangements are also considered to be acceptable for the reasons outlined above with no prejudice to road safety or inconvenience to road users likely to occur. The design of the access is in accordance with the requirements of policy AMP2 of PPS3.

## Recommendations

104. It is recommended that planning permission is granted subject to conditions.

## Conditions

105. The following conditions are recommended:
  1. The development to which this approval relates must be begun by whichever is the later of the following dates:-  
The expiration of a period of 5 years from the grant of outline planning permission; or  
The expiration of a period of 2 years from the date hereof.  
  
Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.
  2. The vehicular access, including any visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 01C, received 9<sup>th</sup> December 2022 prior to the commencement of any other works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

4. The septic tank/sewage treatment unit shall be sited as indicated with suitable levels and adequate area of subsoil irrigation for the disposal of effluent (if appropriate). This comment is based on an assessment of potential nuisance and in no way does it negate the need to meet the requirements of the Water (Northern Ireland) Order 1999. Consent to discharge must be obtained from the Northern Ireland Environment Agency.

Reason: To protect the amenity of neighbouring dwellings with respect to odour

5. All hard and soft landscape works as indicated on the approved plan Drawing 01C received 9<sup>th</sup> December 2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out during the first available planting season after occupation of any part of the dwelling.

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

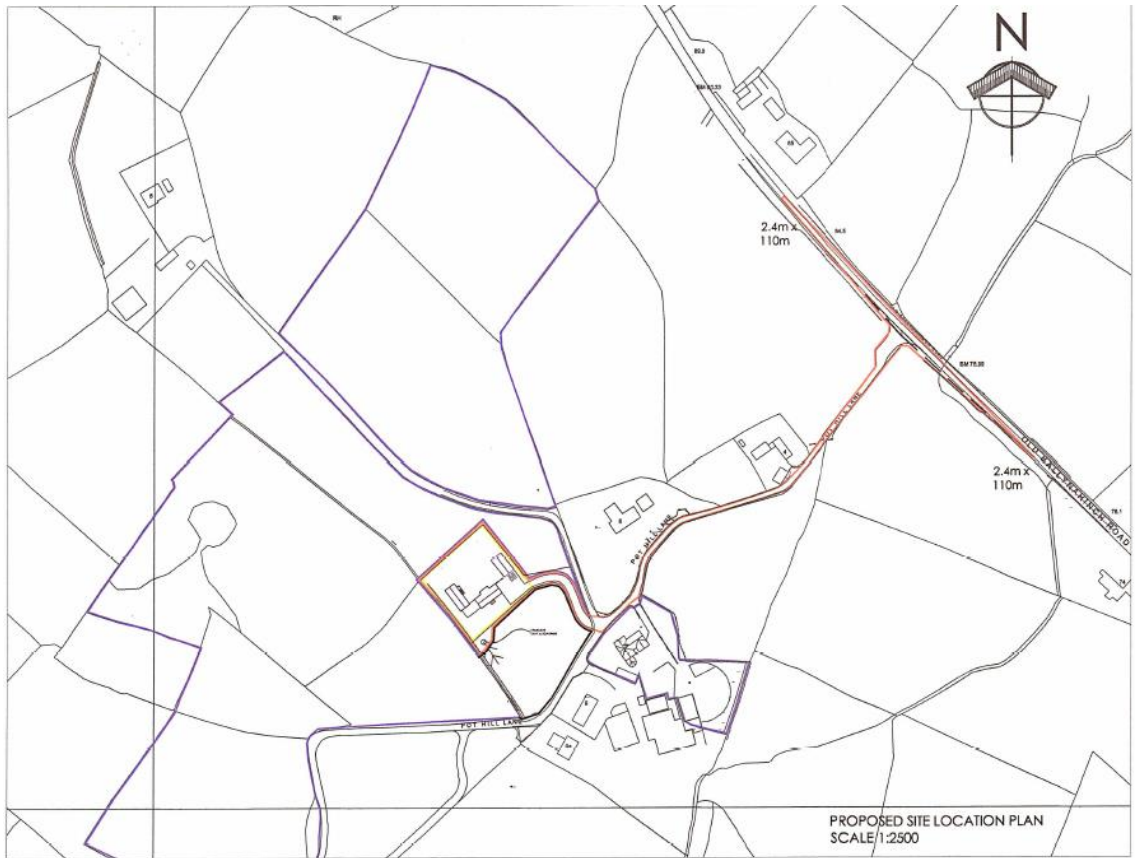
Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

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

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

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

Site Location Plan – LA05/2022/0428/RM













## Planning Committee

06 March 2023

### Report from:

Head of Planning and Capital Development

### Item for Noting

**TITLE:** Item 2 - Appeal decisions in respect of planning applications LA05/2018/0302/F, LA05/2018/0303/F and LA05/2018/0304F

### Background and Key Issues:

#### Background

1. The following applications were refused planning permission on 27 May 2021:
  - **LA05/2018/0302/F** - Temporary change of use of former petrol filling station building and site to use as a car wash and valet business and which includes the siting of an associated storage container on site. (Retrospective application for temporary planning permission for 3 years) at site at 225 Hillsborough Road, Lisburn
  - **LA05/2018/0303/F** - Erection of admin/staff office building for continued use of site for car sales. (Part retrospective application for temporary planning permission for 3 years) at site at 225 Hillsborough Road, Lisburn
  - **LA05/2018/0304F** - Temporary change of use of a former car showroom building to a building for the sale of coal and retention of a change of use of part of a former car sales site to a site for the sale of children's climbing frame equipment including the retention of an associated staff admin building. (Part retrospective application for temporary planning permission for 3 years) at site at 225 Hillsborough Road, Lisburn.

2. In each case, it was considered that the proposals were contrary to paragraph 4.11 of the SPPS and paragraph 4.12 of the SPPS in that insufficient information had been provided to enable the Council to make an informed decision in relation to potential impacts on the environment and amenity.
3. Appeals were lodged with the Planning Appeals Commission [PAC] on 27 July 2021. The procedure followed by the Commission was written representations with a Commissioner noted to have carried out a site visit on 20 January 2023.
4. A decision dated 6 February 2023 confirmed that all three appeals were allowed with conditions.

### **Key Issues**

1. The Commissioner's report is included for the information and consideration of the Members of the Planning Committee (**see Appendix**).
2. As a preliminary matter the appointed Commissioner allowed the submission of drainage plans and an indoor air quality survey. It was not considered to be new information as the issues were in front of the planning authority during the application process. A fuller explanation of the reasons are outlined at paragraph 6 of the report.
3. The submitted information was considered and the Commissioner accepted that the part retrospective proposals would not impact upon air quality and that foul drainage and the drainage system to capture and treat contaminated surface water, was adequate to prevent any adverse environmental impacts associated with the development.
4. The appeal was allowed subject to a condition requiring works to visibility splays, forward sight distances and parking to be carried out within 3 months of the date of the appeal decision.
5. There is no learning arising from the appeal albeit the Members attention is drawn to the Commissioner's comment at paragraph 6. He accepts that it was reasonable for the Council to have expected the information to have been submitted as part of the application process or to have been provided promptly when requested.
6. It is not clear in the report that the Commissioner accepts COVID as the reason for the applicant waiting until the appeal is lodged before submitting the additional drawings and report but it is sufficiently detailed and it is unlikely that a claim for costs would be successful.
7. The need to monitor the operation of the development is also noted as the planning conditions are binding within three months of the date of the decision.

**Recommendation:**

It is recommended that the Committee note the report and decision of the Commission in respect of the three planning appeals.

**Finance and Resource Implications:**

No cost claim was lodged by any party in this instance.

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy? No

**If no, please provide explanation/rationale**

This is a report updating the committee on a decision by the PAC and EQIA is not required.

If yes, what was the outcome?

|  |     |   |     |  |     |
|--|-----|---|-----|--|-----|
| <b>Option 1</b><br>Screen out without mitigation | N/A | <b>Option 2</b><br>Screen out with mitigation | N/A | <b>Option 3</b><br>Screen in for a full EQIA | N/A |
|--|-----|---|-----|--|-----|

**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

### 2. Rural Needs Impact Assessment:

|  |    |   |    |  |
|--|----|---|----|--|
| Has consideration been given to Rural Needs? | No | Has a Rural Needs Impact Assessment (RNIA) template been completed? | No |  |
|--|----|---|----|--|

**If no, please given explanation/rationale for why it was not considered necessary:**

This is a report updating the committee on a decision by the PAC and RNIA is not required

If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**Appendix 2** – Appeal Decision - LA05/2018/0302/F, LA05/2018/0303/F and LA05/2018/0304F

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

If Yes, please insert date:



4th Floor  
92 Ann Street  
Belfast  
BT1 3HH

Phone: 02890893923 (ext 81023) (direct line)

Phone: 028 9024 4710  
Email: [info@pacni.gov.uk](mailto:info@pacni.gov.uk)  
Website: [www.pacni.gov.uk](http://www.pacni.gov.uk)

Our reference: 2021/A0065 2021/A0066 2021/A0067

Planning Authority reference: LA05/2018/0302/F  
LA05/2018/0303/F  
LA05/2018/0304/F

6 February 2023

Dear Sir/Madam

Re:

Appellant name: LCC Group Ltd

Development details: Temporary change of use of former petrol filling station building and site to use as a car wash and valet business and which includes the siting of an associated storage container on site. (Retrospective application for temporary planning permission for 3 years)

Site location: Site at 225 Hillsborough Road Lisburn BT27 5UJ

Re:

Appellant name: LCC Group Ltd

Development details: Erection of admin/staff office building for continued use of site for car sales. (Retrospective application for temporary planning permission for 3 years)

Site location: Site at 225 Hillsborough Road Lisburn BT27 5UJ

Re:

Appellant name: LCC Group Ltd

Development details: Temporary change of use of a former car showroom building to a building for the sale of coal and retention of a change of use of part of a former car sales site to a site for the sale of children's climbing frame equipment including the retention of an associated staff admin building. (Retrospective application for temporary planning permission for 3 years)

Site location: Site at 225 Hillsborough Road Lisburn BT27 5UJ

Please find enclosed Commission decisions on the above cases.

Yours Sincerely,

Padraig Dawson  
PACWAC Admin Team



## Appeal Decisions

Planning Appeals Commission  
4<sup>th</sup> Floor  
92 Ann Street  
BELFAST  
BT1 3HH  
T: 028 9024 4710  
E: [info@pacni.gov.uk](mailto:info@pacni.gov.uk)

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**Appeal Reference:** 2021/A0065 (Appeal 1)  
**Appeal by:** LCC Group Ltd  
**Appeal against:** The refusal of full planning permission  
**Proposed Development:** Temporary change of use of former petrol station building and site to use as a car wash and valet business and which includes the siting of an associated storage container on site (retrospective application for temporary planning permission for 3 years)  
**Location:** 225 Hillsborough Road, Lisburn.  
**Planning Authority:** Lisburn and Castlereagh City Council  
**Application Reference:** LA05/2018/0302/F  
**Procedure:** Written representations and Commissioner's site visit on 20<sup>th</sup> January 2023  
**Decision by:** Commissioner Kenneth Donaghey, dated 6<sup>th</sup> February 2023

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**Appeal Reference:** 2021/A0066 (Appeal 2)  
**Appeal by:** LCC Group Ltd  
**Appeal against:** The refusal of full planning permission  
**Proposed Development:** Erection of admin / staff office building for continued use of site for car sales (retrospective application for temporary planning permission for 3 years).  
**Location:** 225 Hillsborough Road, Lisburn.  
**Planning Authority:** Lisburn and Castlereagh City Council  
**Application Reference:** LA05/2018/0303/F  
**Procedure:** Written representations and Commissioner's site visit on 20<sup>th</sup> January 2023  
**Decision by:** Commissioner Kenneth Donaghey, dated 6<sup>th</sup> February 2023

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**Appeal Reference:** 2021/A0067 (Appeal 3)  
**Appeal by:** LCC Group Ltd  
**Appeal against:** The refusal of full planning permission  
**Proposed Development:** Temporary change of use of a former car showroom building to a building for the sale of coal and retention of a change of use of part of a former car sales site to a site for the sale of children's climbing frame equipment including the retention of an associated staff admin building (retrospective application for temporary planning permission for 3 years).  
**Location:** 225 Hillsborough Road, Lisburn.  
**Planning Authority:** Lisburn and Castlereagh City Council  
**Application Reference:** LA05/2018/0304/F

|                     |  |
|---------------------|--|
| <b>Procedure:</b>   | Written representations and Commissioner's site visit on 20 <sup>th</sup> January 2023 |
| <b>Decision by:</b> | Commissioner Kenneth Donaghey, dated 6 <sup>th</sup> February 2023                     |

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## Decisions

1. Appeal 1 is allowed with conditions.
2. Appeal 2 is allowed with conditions.
3. Appeal 3 is allowed with conditions.

## Preliminary matter

4. The appellant submitted three new drainage plans (one for each appeal site) and an indoor air quality survey (AONA Environmental, November 2021) at appeal stage. The Council object to the admission of this information under Section 59 of the Planning Act (Northern Ireland) 2011. This states: *"In an appeal under section 58, a party to the proceedings is not to raise any matter which was not before the council or, as the case may be, the Department at the time the decision appealed against was made unless that party can demonstrate to the satisfaction of the planning appeals commission (a) that the matter could not have been raised before that time, or (b) that its not being raised before that time was a consequence of exceptional circumstances"*.
5. The appellant is of the view that the above matters were under discussion with the Council during the processing of the planning application. The new drainage plans submitted are an amendment to the drainage drawings which were submitted as part of the planning application. The Council state that there is no reason why this information could not have accompanied the planning application and its inclusion at appeal stage is inappropriate.
6. It is evident that the Council were cognisant of the issues which relate to the additional documentation during the processing of the application as they were requested several times and also form the basis of the refusal reasons. There is a reasonable expectation from Council that these documents should have accompanied the planning application or at least provided promptly after they were requested. The appellant advised the that there were issues related to the COVID - 19 pandemic which curtailed the appellants ability to requisition the required report and drawings. Notwithstanding, the issues of internal air quality and drainage were clearly considered as part of the decision making process and are therefore matters which were before the Council at the time the decision was made. In these circumstances I accept they are admissible at this stage and therefore the additional information will form part of my consideration of all three appeals.

## Reasons

7. The main issues in each appeal relate to the impacts of the development upon air quality and drainage.



8. Section 45(1) of the Planning Act requires that regard must be had to the local development plan (LDP), so far as material to the application and to any other material considerations. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
9. The Court of Appeal declared the adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) unlawful on 18th May 2017 and consequently no determining reliance can be placed on policies and designations within it. While the draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, remains material to the consideration of development proposals in the Belfast Metropolitan Area, the Lisburn Area Plan 2001 (LAP) operates as a LDP for the area where the appeal site is located. Within both the LAP and dBMAP the site is within the development limits of Lisburn at Sprucefield Regional Park. Neither the LAP nor dBMAP contain determining policies pertinent to the issues within this appeal.
10. The Council have accepted that the development proposed in all three appeals is acceptable in principle. The refusal reasons relate to Paragraphs 4.11 and 4.12 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) which refer to the safeguarding of residential and work environs. The Council are of the view that adequate information has not been provided to allow proper assessment of the amenity considerations arising from the development.
11. All three appeal sites are adjacent to the south bound carriageway of Hillsborough Road on the stretch of road which is between the A1 roundabout to the south and the Sprucefield roundabout to the north. The sites are subdivisions of a large roadside plot. The subdivisions sit side by side for the full width of the entire plot. Appeal site 1 comprises a small container type building of around 2.5 metres in height which has an open front and a flat roof. Appeal site 2 comprises a large industrial type building with roller shutter doors and a metal clad roof. Appeal site 3 comprises a small pre-fabricated building. The access to the site is from the Hillsborough road at the frontage of appeal site 1. All three appeal sites comprise existing hard standing areas of concrete and tar-mac. All three sites are bound by black mesh wire fencing which is around 1.8 metres in height.
12. The first refusal reason presented in each of the appeals refers to the indoor air quality due to the possible presence of volatile ground borne gasses within the application site. The appellant provided an indoor air quality assessment (AONA Environmental, November 2021) with its written evidence. The Council forwarded this report to its Environmental Health Department for comment. Following the consideration of this assessment the Council accept that the development within each appeal will not impact upon air quality. The first reason for refusal has not been sustained in each of the three appeals.
13. The second reason for refusal relates to the provision of drainage for all three appeal sites. The appellant has provided three separate drainage plans with their written evidence. Whilst there is some overlap in terms of sewerage treatment. Each of the individual sites proposes its own storm water run-off treatment facility. The drawings demonstrate that each site is to be served by a Klargester full retention separator

(or similar product) which then percolates any runoff to the subsoil at appropriately sized Geocells for each appeal site. Each Geocell is sized differently to accommodate the level of discharge appropriate to each site.

14. The surface treatments of all three sites are almost exclusively tarmac or paving. These are impermeable in nature. Therefore, the disposal and treatment of surface water arising from the activities on site is an important consideration, particularly for the car wash proposed in Appeal 1. New channel drains are proposed around the perimeter of all sites with some additional drains proposed within the site of Appeal 1. The levels provided indicate that these drains are adequately positioned to capture surface water from all three appeal sites.
15. When the surface water is captured by the drainage channels, it is channelled to and treated by an individual interceptor for each site. The limited specification provided for each interceptor indicates that they can separate silt, oil and other contaminants from the water. The effluent is then discharged to Geocells which sit one metre below ground and filter onto the sub soil. Under Article 7 of the Water (Northern Ireland) Order 1999, it is necessary to obtain the consent of the Department of Agriculture, Environment and Rural Affairs to make a discharge of sewage effluent from a house or other premises to a waterway or to the underground stratum, therefore I do not have the jurisdiction to consider this issue in respect of these three appeals. However, the design of the proposed system to capture and treat contaminated surface water is adequate to prevent any adverse environmental impacts associated with the development. The implementation of this system should be conditioned for all three appeals to ensure adequate provision is made for the treatment of surface water.
16. The foul sewerage system proposed requires the removal of the existing septic tank and the installation of a sewage treatment plant, with a Geocell percolation area. A new foul drainage system is proposed to link all three sites and terminate at the proposed treatment system. Like the surface water system, it is proposed to discharge treated effluent into a below ground Geocell. The discharging of any effluent or treated run off into the sub soil can be considered under a separate body of legislation, therefore I do not have jurisdiction to consider this matter for these three appeals. However, the changes of use involved in each appeal do not represent significant intensifications of the sewerage system. The change from a septic tank to a small sewerage treatment plant is an improvement. Therefore, the means of foul waste disposal at the sites is adequate to prevent any environmental impacts associated with the three appeals. The implementation of this system should be conditioned for all three appeals in order to ensure adequate provision is made for foul sewerage. As such the second reason for refusal is not sustained for all three appeals.
17. Several conditions have been provided by the Council within the background papers to this appeal which relate to the access to all three appeal developments. These reflect amendments which the appellant has made to each of the applications in order to satisfy the requirements of DFI Roads. As such, it is necessary to add these conditions, which relate to the provision of visibility splays, forward sight distances and parking, for all three appeals. Furthermore, the description of development for all three appeals states that the appellant has sought temporary approval for a period of three years. A condition stating this is necessary for all three appeals.

18. With the submission of additional information the Council are satisfied the concerns raised by the first refusal reason, in each appeal, can be satisfactorily addressed therefore, this reason for refusal is not sustained. Appropriate planning conditions can be used in all three appeals which address the concerns raised by the Council's second reason for refusal. Thus, this reason for refusal is not sustained. The appeals are allowed subject to the conditions set out below.

### **Conditions (Appeal 1)**

1. The permission hereby granted shall be for a limited period of three years only from the date of this permission.
2. The drainage infrastructure shown on drawing No IBH0730 S 0010 received by the Planning Appeals Commission on the 4<sup>th</sup> January 2022 shall be erected within 3 months of the date of this approval unless previously agreed with LCC Council in writing before this date.
3. The vehicular access, including any visibility splays and any forward sight distance shall be provided in accordance with drawing No 19-126-P-100 which was received by LCC Council on the 6<sup>th</sup> July 2020 within three months of the date of this decision. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.
4. Parking and circulation areas shall be provided in accordance with drawing No 19-126-P-100 which was received by LCC Council on the 6<sup>th</sup> July 2020 within three months of the date of this decision.

### **Conditions (Appeal 2)**

1. The permission hereby granted shall be for a limited period of three years only from the date of this permission.
2. The drainage infrastructure shown on drawing No IBH0730 S 0020 received by the Planning Appeals Commission on the 4<sup>th</sup> January 2022 shall be erected within 3 months of the date of this approval unless previously agreed with LCC Council in writing before this date.
3. The vehicular access, including any visibility splays and any forward sight distance shall be provided in accordance with drawing No 19-126-P-100 which was received by LCC Council on the 6<sup>th</sup> July 2020 within three months of the date of this decision. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.
4. Parking and circulation areas shall be provided in accordance with drawing No 19-126-P-100 which was received by LCC Council on the 6<sup>th</sup> July 2020 within three months of the date of this decision.

### **Conditions (Appeal 3)**

1. The permission hereby granted shall be for a limited period of three years only from the date of this permission.

2. The drainage infrastructure shown on drawing No IBH0730 S 0030 received by the Planning Appeals Commission on the 4<sup>th</sup> January 2022 shall be erected within 3 months of the date of this approval unless previously agreed with LCC Council in writing before this date.
3. The vehicular access, including any visibility splays and any forward sight distance shall be provided in accordance with drawing No 19-126-P-100 which was received by LCC Council on the 6<sup>th</sup> July 2020 within three months of the date of this decision. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.
4. Parking and circulation areas shall be provided in accordance with drawing No 19-126-P-100 which was received by LCC Council on the 6<sup>th</sup> July 2020 within three months of the date of this decision.

These decisions are based on the following drawings:-

**2021/A0065 (Appeal 1)**

No 001 Site Location Map at 1:1250 (received by LCC Council 23rd March 2018)

No 002 Site Plan at 1:500 (received by LCC Council 21<sup>st</sup> June 2018)

No 003 Elevations at 1:100 (received by LCC Council 21<sup>st</sup> June 2018)

No 19-126-P-100 Parking Layout at 1:500 (received by LCC Council 6<sup>th</sup> July 2020)

No IBH0730 S 0010 A Drainage Plan at 1:250 (received by Planning Appeals Commission 4<sup>th</sup> Jan 2022)

**2021/A0066 (Appeal 2)**

No 001 Site Location Map at 1:1250 (received by LCC Council 23rd March 2018)

No 002 Site Plan at 1:500 (received by LCC Council 21<sup>st</sup> June 2018)

No 003 Elevations at 1:100 (received by LCC Council 21<sup>st</sup> June 2018)

No 19-126-P-100 Parking Layout at 1:500 (received by LCC Council 6<sup>th</sup> July 2020)

No IBH0730 S 0020 A Drainage Plan at 1:250 (received by Planning Appeals Commission 4<sup>th</sup> Jan 2022)

**2021/A0067 (Appeal 3)**

No 001 Site Location Map at 1:1250 (received by LCC Council 23rd March 2018)

No 002 Site Plan at 1:500 (received by LCC Council 21<sup>st</sup> June 2018)

No 003 Elevations at 1:100 (received by LCC Council 21<sup>st</sup> June 2018)

No 19-126-P-100 Parking Layout at 1:500 (received by LCC Council 6<sup>th</sup> July 2020)

No IBH0730 S 0030 A Drainage Plan at 1:250 (received by Planning Appeals Commission 4<sup>th</sup> Jan 2022)

**COMMISSIONER KENNETH DONAGHEY**

**List of Documents****2021/A065 (Appeal 1)**

|                      |    |   |
|----------------------|----|---|
| Planning Authority:- | A  | Statement of Case<br>Lisburn and Castlereagh City Council |
|                      | A1 | Rebuttal<br>Lisburn and Castlereagh City Council          |
| Appellant:-          | B  | Statement of Case and appendices<br>Gravis Planning       |
|                      | B1 | Rebuttal<br>Gravis Planning                               |

**2021/A0066 (Appeal 2)**

|                      |    |   |
|----------------------|----|---|
| Planning Authority:- | C  | Statement of Case<br>Lisburn and Castlereagh City Council |
|                      | C1 | Rebuttal<br>Lisburn and Castlereagh City Council          |
| Appellant:-          | D  | Statement of Case and appendices<br>Gravis Planning       |
|                      | D1 | Rebuttal<br>Gravis Planning                               |

**2021/A0067 (Appeal 3)**

|                      |    |   |
|----------------------|----|---|
| Planning Authority:- | E  | Statement of Case<br>Lisburn and Castlereagh City Council |
|                      | E1 | Rebuttal<br>Lisburn and Castlereagh City Council          |
| Appellant:-          | F  | Statement of Case and appendices<br>Gravis Planning       |
|                      | F1 | Rebuttal<br>Gravis Planning                               |



## Planning Committee

06 March 2023

### Report from:

Head of Planning and Capital Development

### Item for Noting

**TITLE:** Item 3 - Appeal decision(s) in respect of planning applications LA05/2021/0071/O and LA05/2021/0072/O

### Background and Key Issues:

#### Background

1. Two applications for single dwellings on lands 50 metres south of 12 and 12A Kilcorig Road were refused planning permission in March 2022 as it was considered that there were no overriding reasons why the development was essential in this rural location and could not be located in a settlement.
2. Appeals were lodged with the Planning Appeals Commission [PAC] on 25 April 2022. The procedure followed by the Commission was written representations with a Commissioner noted to have carried out a site visit on 20 January 2023.
3. In the decisions received on 26 January 2023 both appeals were dismissed.

#### Key Issues

1. The Commissioner's reports are included for the information and consideration of the Members of the Planning Committee (**see Appendices**).

2. The main issues in both appeals were whether a dwelling would be acceptable in principle in the countryside at this location or would detrimentally change the rural character of the area because a building could not visually integrate into the surrounding landscape.
3. At paragraph 10, the Commissioner emphasises that policy CTY 2A provides for the erection of a single dwelling at an existing cluster, and highlights that this policy context is different to Policy CTY 8 which provides an exception for up to two dwellings in a gap site. The Commissioner notes that each of the appeals must be considered as a stand-alone proposal.
4. He agrees with the Council's assessment that the nearest community building, a Roman Catholic Church, was too distant to physically be within a cluster.
5. The Commissioner also accepted that neither sites were enclosed on two boundaries and did represent a rounding off or consolidation of the existing cluster and that, if approved, would alter the rural character of the area.
6. Both applications were decided at a planning committee and Members should note that the Council sustained all four refusal reasons in relation to policies CTY 2a, CTY 8, CTY 13 and CTY 14 of PPS 21 in so far as they related to each decision.
7. The Commissioner offers assistance in drawing a helpful distinction between the number of dwellings that can be considered against the requirements of policies CTY 2a and CTY 8. Members are requested to note the difference.

#### **Recommendation:**

It is recommended that the Committee notes the report and decision of the Commissioner in respect of the two planning appeals.

#### **Finance and Resource Implications:**

No cost claim was lodged by any party in this instance.

## **Screening and Impact Assessment**

### **1. Equality and Good Relations**

Has an equality and good relations screening been carried out on the proposal/project/policy?

No

#### **If no, please provide explanation/rationale**

This is a report updating the committee on a decision by the PAC and EQIA is not required.

If yes, what was the outcome?

**Option 1**

Screen out without mitigation

N/A

**Option 2**

Screen out with mitigation

N/A

**Option 3**

Screen in for a full EQIA

N/A

**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

**2. Rural Needs Impact Assessment:**

Has consideration been given to Rural Needs?

No

Has a Rural Needs Impact Assessment (RNIA) template been completed?

No

**If no, please given explanation/rationale for why it was not considered necessary:**

This is a report updating the committee on a decision by the PAC and RNIA is not required

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**Appendix 3(a)** – Appeal Decision - LA05/2021/0071/O  
**Appendix 3(b)** – Appeal Decision - LA05/2021/0072/O

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No



**If Yes, please insert date:**



# Appeal Decision

4<sup>th</sup> Floor  
92 Ann Street  
BELFAST  
BT1 3HH  
T: 028 9024 4710  
E: info@pacni.gov.uk

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|                               |  |
|-------------------------------|--|
| <b>Appeal Reference:</b>      | 2022/A0014   |
| <b>Appeal by:</b>             | Mr Mark Anderson   |
| <b>Appeal against:</b>        | The refusal of outline planning permission   |
| <b>Proposed Development:</b>  | Site for dwelling under PPS 21 Policy CTY2A  |
| <b>Location:</b>              | 50m south of 12 Kilcorig Road, Lisburn   |
| <b>Planning Authority:</b>    | Lisburn and Castlereagh City Council   |
| <b>Application Reference:</b> | LA05/2021/0071/O   |
| <b>Procedure:</b>             | Written representations and Commissioner's site visit on 20 <sup>th</sup> January 2023 |
| <b>Decision by:</b>           | Commissioner Gareth Kerr, dated 26 <sup>th</sup> January 2023                          |

---

## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposal is acceptable in principle the countryside and whether it would detrimentally change the rural character of the area.
3. The Planning Act (Northern Ireland) 2011 states that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Court of Appeal declared the adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) unlawful on 18<sup>th</sup> May 2017. This means the previous Lisburn Area Plan 2001 (LAP) acts as the LDP for this area. The draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, is a material consideration. In both LAP and dBMAP, the site is located in the countryside and is zoned as green belt. However, as the green belt policy of the LDP is now outdated having been overtaken by regional policy, no determining weight can be attached to it. There are no other provisions in the LDP that are material to the determination of the appeal.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for their council area. It also retains certain existing Planning Policy Statements including Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21). The SPPS is no more prescriptive than PPS 21 on the issues raised in this appeal. Thus the retained policies take precedence in decision making in accordance with the transitional arrangements outlined in the SPPS.

Supplementary planning guidance is found in 'Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside' (BOT).

5. Policy CTY1 of PPS 21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The first of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.
6. Policy CTY2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:
  - the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
  - the cluster appears as a visual entity in the local landscape;
  - the cluster is associated with a focal point such as a social / community building / facility, or is located at a cross-roads;
  - the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
  - development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
  - development would not adversely impact on residential amenity.
7. The appeal site slopes gently from north to south and comprises the eastern portion of an agricultural field and part of a shared laneway which serves existing dwellings to the north at 12 and 12A Kilcorrig Road. These dwellings are part of a cluster of development on the eastern side of Kilcorrig Road historically known as Grahamstown. The cluster includes dwellings at 12, 12A, 14, 16, 16A, 18, 18A and 18B Kilcorrig Road and a number of ancillary buildings. The appellant referred to stables approved under application LA05/2018/0387/F on a site approximately 130m north of the dwelling at 18B. The stables are now built. Given their distance from the existing buildings in the cluster, I do not consider them to be within it. A pending application (LA05/2022/0422/O) for an infill dwelling between 18B Kilcorrig Road and the stables is not relevant to the consideration of this appeal. St. Joseph's Roman Catholic Church is located approximately 100m south west of the nearest of the abovementioned buildings on the opposite side of Kilcorrig Road and with frontage onto a minor road called Horse Park.
8. Both parties accept that a cluster of development that appears as a visual entity in the local landscape exists at Grahamstown. The appellant has provided historical Ordnance Survey maps to demonstrate that Ballyellough School was formerly located in buildings to the west of the appeal site which are now demolished. It is argued that the church and school were a community focal point for many years and that the cluster developed around the school buildings. There is no evidence regarding when the use of the school ceased or the buildings were demolished. The former school cannot be taken account of as it no longer exists. In any case, most of the existing buildings in the cluster are relatively recent and could not therefore have been erected for their proximity to the school.

9. The Council does not dispute that the church may be considered a focal point within the terms of the Policy. However, the Council is of the view that the appeal site is not suitably enclosed, is not bounded on at least two sides with other development in the cluster and that the proposed development would visually intrude into the open countryside. It considers that the church is too far removed from the application site to provide any sense of enclosure. The appellant argues that the appeal proposal and another similar one on the land to the west (under appeal reference 2022/A0015) would together consolidate a gap in the cluster between the buildings at 12 and 12A and St. Joseph's Church.
10. Policy CTY2A provides for the erection of a dwelling at an existing cluster of development (my emphasis). It is different from, for example, Policy CTY8 which provides an exception for up to two dwellings in a gap site. Policy CTY2A does not envisage the rounding off or consolidation of a cluster with two dwellings. Therefore, each of the appeals must be considered as a stand-alone proposal for a dwelling. Given their different locations, there are subtle differences in the issues raised.
11. Although the church is a community focal point which may serve dwellings at Grahamstown and the wider area, there is a significant gap of around 100m between it and the nearest building in the cluster of development. This means that on the ground the church does not read as part of the same visual entity as the main cluster of development to the north of the appeal site. The Policy requires that the cluster is associated with a focal point such as a social / community building (my emphasis). The church can be considered to be associated with Grahamstown being its nearest community building, but in spatial terms, it is not physically within the cluster of development. The cluster at Grahamstown is strongly identified with the eastern side of the Kilcorrig Road. Although recent planning approvals have extended its built form to the north, its southern, eastern and western extents are clearly defined. It does not extend to the south beyond the curtilages of 12 and 12A Kilcorrig Road. Having regard to the juxtaposition of the buildings in the area, I conclude that there is a cluster of development at Grahamstown, but for the purposes of Policy CTY2A, the church is not spatially located within it.
12. The appeal site sits to the south of the curtilage of 12 Kilcorrig Road, a cottage with several ancillary buildings, one of which sits parallel to the northern boundary of the appeal site. Also to the north of the appeal site is a two storey dwelling at 12A Kilcorrig Road. As the appeal site includes the shared laneway for access, the site is bounded to the north by other development in the cluster at both 12 and 12A. The eastern boundary of the appeal site follows a small watercourse beyond which is agricultural land. To the south of the appeal site is a low-lying wooded area. The western boundary of the appeal site is not defined on the ground, but beyond it is more agricultural land, some of which is used for the storage of agricultural machinery.
13. The appellant argues that the appeal site is bound to the south west by the church. I have already found that the church is not spatially located within the cluster of development. Even if I were to accept that the church formed part of the cluster of development, the appeal site does not share a boundary with it. The appeal site is separated from the church by the remainder of the host field and the junction of Kilcorrig Road and Horse Park. Mature trees to the east and south of the appeal site would provide a degree of backdrop, but there would be no sense of enclosure from

public viewpoints to the west of the site on Kilcorrig Road. Given the lack of enclosure to the west and that the site is only bounded to one side with other development in the cluster, the proposal would not comply with the fourth criterion of Policy CTY2A.

14. The Council referred to supplementary planning guidance on page 69 of BOT which illustrates sites at the extremity of existing clusters that extend development into the open countryside will not be acceptable. As the proposed development would only abut existing development in the cluster to its northern side, it would not round off or consolidate the existing cluster but would visually intrude into the open countryside to the south. Such an extension to the existing cluster would alter its character when viewed from Kilcorrig Road and would therefore be contrary to the fifth criterion of Policy CTY2A. The Council has sustained its first reason for refusal.
15. Policy CTY8 of PPS 21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Policy CTY14 of PPS 21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of an area. A new building will be unacceptable where any of five criteria are offended including: (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; and (d) it creates or adds to a ribbon of development (cross-referenced with Policy CTY8). Paragraph 5.33 of PPS 21 states that a 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage, or they are visually linked.
16. Despite being set back approximately 30m from Kilcorrig Road, a dwelling on the appeal site would read visually with those to the north including 12A, 14, 18, 18A and 18B, adding to an existing ribbon of development. It would also add to a build up of development comprising the above dwellings and others to their east including 12, 16 and 16A within the cluster. This would further erode the rural character of the area. Accordingly, the Council has sustained its second and third reasons for refusal based on Policies CTY8 and CTY14. As all of the Council's reasons for refusal are sustained and determining, the appeal must fail.

This decision is based on drawing No. 2035/A02 – site location map at scale 1:2500 – which was received by the Council on 18<sup>th</sup> January 2021.

**COMMISSIONER GARETH KERR**

**List of Documents**

- |                      |   |  |
|----------------------|---|--|
| Planning Authority:- | A | Statement of Case<br>Lisburn and Castlereagh City Council  |
|                      | B | Rebuttal Statement<br>Lisburn and Castlereagh City Council |
| Appellant:-          | C | Statement of Case<br>Les Ross Planning                     |
|                      | D | Rebuttal Statement<br>Les Ross Planning                    |



# Appeal Decision

4<sup>th</sup> Floor  
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|                               |  |
|-------------------------------|--|
| <b>Appeal Reference:</b>      | 2022/A0015   |
| <b>Appeal by:</b>             | Mr Mark Anderson   |
| <b>Appeal against:</b>        | The refusal of outline planning permission   |
| <b>Proposed Development:</b>  | Site for dwelling under PPS 21 Policy CTY2A  |
| <b>Location:</b>              | 50m south of 12A Kilcorig Road, Lisburn  |
| <b>Planning Authority:</b>    | Lisburn and Castlereagh City Council   |
| <b>Application Reference:</b> | LA05/2021/0072/O   |
| <b>Procedure:</b>             | Written representations and Commissioner's site visit on 20 <sup>th</sup> January 2023 |
| <b>Decision by:</b>           | Commissioner Gareth Kerr, dated 26 <sup>th</sup> January 2023                          |

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposal is acceptable in principle the countryside, whether it would detrimentally change the rural character of the area and whether it would visually integrate into the surrounding landscape.
3. The Planning Act (Northern Ireland) 2011 states that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Court of Appeal declared the adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) unlawful on 18<sup>th</sup> May 2017. This means the previous Lisburn Area Plan 2001 (LAP) acts as the LDP for this area. The draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, is a material consideration. In both LAP and dBMAP, the site is located in the countryside and is zoned as green belt. However, as the green belt policy of the LDP is now outdated having been overtaken by regional policy, no determining weight can be attached to it. There are no other provisions in the LDP that are material to the determination of the appeal.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for their council area. It also retains certain existing Planning Policy Statements including Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21). The SPPS is no more prescriptive than PPS 21 on the issues raised in this appeal. Thus the retained policies take precedence in decision making in accordance with the transitional arrangements outlined in the SPPS.

Supplementary planning guidance is found in 'Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside' (BOT).

5. Policy CTY1 of PPS 21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The first of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.
6. Policy CTY2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:
  - the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
  - the cluster appears as a visual entity in the local landscape;
  - the cluster is associated with a focal point such as a social / community building / facility, or is located at a cross-roads;
  - the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
  - development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
  - development would not adversely impact on residential amenity.
7. The appeal site slopes gently from north to south and comprises the western portion of an agricultural field and part of a shared laneway which serves existing dwellings to the north at 12 and 12A Kilcorrig Road. These dwellings are part of a cluster of development on the eastern side of Kilcorrig Road historically known as Grahamstown. The cluster includes dwellings at 12, 12A, 14, 16, 16A, 18, 18A and 18B Kilcorrig Road and a number of ancillary buildings. The appellant referred to stables approved under application LA05/2018/0387/F on a site approximately 130m north of the dwelling at 18B. The stables are now built. Given their distance from the existing buildings in the cluster, I do not consider them to be within it. A pending application (LA05/2022/0422/O) for an infill dwelling between 18B Kilcorrig Road and the stables is not relevant to the consideration of this appeal. St. Joseph's Roman Catholic Church is located approximately 100m south west of the nearest of the abovementioned buildings on the opposite side of Kilcorrig Road and with frontage onto a minor road called Horse Park.
8. Both parties accept that a cluster of development that appears as a visual entity in the local landscape exists at Grahamstown. The appellant has provided historical Ordnance Survey maps to demonstrate that Ballyellough School was formerly located in buildings at the southern end of the appeal site which are now demolished. All that remains is a tarmacked entrance used for the storage of farm machinery. It is argued that the church and school were a community focal point for many years and that the cluster developed around the school buildings. There is no evidence regarding when the use of the school ceased or the buildings were demolished. The former school cannot be taken account of as it no longer exists. In any case, most of the existing buildings in the cluster are relatively recent and could not therefore have been erected for their proximity to the school.



9. The Council does not dispute that the church may be considered a focal point within the terms of the Policy. However, the Council is of the view that the appeal site is not suitably enclosed, is not bounded on at least two sides with other development in the cluster and that the proposed development would visually intrude into the open countryside. It considers that the church is too far removed from the application site to provide any sense of enclosure. The appellant argues that the appeal proposal and another similar one on the land to the east (under appeal reference 2022/A0014) would together consolidate a gap in the cluster between the buildings at 12 and 12A and St. Joseph's Church.
10. Policy CTY2A provides for the erection of a dwelling at an existing cluster of development (my emphasis). It is different from, for example, Policy CTY8 which provides an exception for up to two dwellings in a gap site. Policy CTY2A does not envisage the rounding off or consolidation of a cluster with two dwellings. Therefore, each of the appeals must be considered as a stand-alone proposal for a dwelling. Given their different locations, there are subtle differences in the issues raised.
11. Although the church is a community focal point which may serve dwellings at Grahamstown and the wider area, there is a significant gap of around 100m between it and the nearest building in the cluster of development. This means that on the ground the church does not read as part of the same visual entity as the main cluster of development to the north of the appeal site. The Policy requires that the cluster is associated with a focal point such as a social / community building (my emphasis). The church can be considered to be associated with Grahamstown being its nearest community building, but in spatial terms, it is not physically within the cluster of development. The cluster at Grahamstown is strongly identified with the eastern side of the Kilcorrig Road. Although recent planning approvals have extended its built form to the north, its southern, eastern and western extents are clearly defined. It does not extend to the south beyond the curtilages of 12 and 12A Kilcorrig Road. Having regard to the juxtaposition of the buildings in the area, I conclude that there is a cluster of development at Grahamstown, but for the purposes of Policy CTY2A, the church is not spatially located within it.
12. The appeal site sits adjacent to the Kilcorrig Road which runs along its western side and is enclosed to the north and west by a ranch-style timber fence. Across the road to the west is an agricultural field. Beyond the shared laneway to the north is a small paddock accessed from the road and then a roadside bungalow at 14 Kilcorrig Road. To the east of the appeal site is the remainder of the host field. Beyond a watercourse which forms the eastern boundary of the field is the curtilage of 12 Kilcorrig Road, a cottage with several ancillary buildings. The shared laneway also serves a two storey dwelling at 12A Kilcorrig Road. The red line just touches the southern corner of its curtilage. To the south of the appeal site is a low-lying wooded area. The appeal site is bounded to the north, east and west by agricultural land and to the south by a wooded area. Even if I were to accept that it bounds the curtilage of 12A to the north, it is not bounded on at least two sides with other development in the cluster.
13. The appellant argues that the appeal site is bound to the south west by the church. I have already found that the church is not spatially located within the cluster of development. Even if I were to accept that the church formed part of the cluster of development, the appeal site does not share a boundary with it. The appeal site is

separated from the church by the junction of Kilcorig Road and Horse Park. The church's small frontage onto Kilcorig Road is further south than the appeal site. The only natural screenings that bound the appeal site are the trees to the south, but there would be no sense of enclosure from public viewpoints to the west of the site on Kilcorig Road. Given the lack of enclosure to the west and that the site is not bounded on at least two sides with other development in the cluster, the proposal would not comply with the fourth criterion of Policy CTY2A.

14. The Council referred to supplementary planning guidance on page 69 of BOT which illustrates sites at the extremity of existing clusters that extend development into the open countryside will not be acceptable. As the proposed development would not abut existing development in the cluster, it would not round off or consolidate the existing cluster but would visually intrude into the open countryside to the south. Such an extension to the existing cluster would alter its character when viewed from Kilcorig Road and would therefore be contrary to the fifth criterion of Policy CTY2A. The Council has sustained its first reason for refusal.
15. Policy CTY8 of PPS 21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Policy CTY14 of PPS 21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of an area. A new building will be unacceptable where any of five criteria are offended including: (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; and (d) it creates or adds to a ribbon of development (cross-referenced with Policy CTY8). Paragraph 5.33 of PPS 21 states that a 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage, or they are visually linked.
16. The appeal proposal would extend an existing line of road frontage development further to the south. A dwelling on the appeal site would read visually with those to the north including 12A, 14, 18, 18A and 18B, adding to an existing ribbon of development. It would also add to a build up of development comprising the above dwellings and others to their east including 12, 16 and 16A within the cluster. This would further erode the rural character of the area. Accordingly, the Council has sustained its second and third reasons for refusal based on Policies CTY8 and CTY14.
17. Policy CTY13 of PPS 21 is entitled "Integration and Design of Buildings in the Countryside". It identifies seven instances where a new building will be unacceptable including: (c) where it relies primarily on the use of new landscaping for integration. The only existing natural boundary of the appeal site is the wooded area to the south. Its eastern boundary is undefined and the existing ranch-style fence to the north and west could not provide a suitable degree of enclosure to integrate a new dwelling. Although the trees further to the east would provide a degree of backdrop, the proposal would still rely primarily on new landscaping for integration. Therefore, the Council has sustained its fourth reason for refusal. As all of the Council's reasons for refusal are sustained and determining, the appeal must fail.

This decision is based on drawing No. 2035/A01 – site location map at scale 1:2500 – which was received by the Council on 18<sup>th</sup> January 2021.

**COMMISSIONER GARETH KERR**

**List of Documents**

- Planning Authority:-
  - A Statement of Case  
Lisburn and Castlereagh City Council
  - B Rebuttal Statement  
Lisburn and Castlereagh City Council
  
- Appellant:-
  - C Statement of Case  
Les Ross Planning
  - D Rebuttal Statement  
Les Ross Planning



## Planning Committee

**06 March 2023**

### Report from:

**Head of Planning and Capital Development**

### Item for Noting

**TITLE: Item 4 - CPRE (Somerset) R (On the Application Of) v South Somerset District Council 2022 EWHC 2817 (Admin) (08 November 2022)**

### Background and Key Issues:

#### **Background**

1. At the Planning Committee meeting on 6 February 2023, Members were provided with an update from the Council's legal advisor on recent case law which deals with conflicts of interest in the decision making process for planning applications.
2. A hard copy of the judgment in CPRE (Somerset), R (On the Application Of) v South Somerset District Council [2022] EWHC 2817 is provided for information.

#### **Key Issues**

1. No issues are identified in respect of the operation of the planning committee. The judgement highlights to Elected Members how conflicts of interest, even when declared and recorded, might still impact on the decision making process due to apparent bias.

### Recommendation:

It is recommended that Members note the detail of the attached judgement.

**Finance and Resource Implications:**

There are no finance or resource implications.

**Screening and Impact Assessment**

**1. Equality and Good Relations**

Has an equality and good relations screening been carried out on the proposal/project/policy?

**If no, please provide explanation/rationale**

This is a report providing notification of a Court judgement. EQIA not required.

If yes, what was the outcome:

|  |                                  |   |                                  |  |                                  |
|--|----------------------------------|---|----------------------------------|--|----------------------------------|
| <b>Option 1</b><br>Screen out without mitigation | <input type="text" value="N/A"/> | <b>Option 2</b><br>Screen out with mitigation | <input type="text" value="N/A"/> | <b>Option 3</b><br>Screen in for a full EQIA | <input type="text" value="N/A"/> |
|--|----------------------------------|---|----------------------------------|--|----------------------------------|

**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

**Insert link to completed Equality and Good Relations report:**

**2. Rural Needs Impact Assessment:**

|  |                                 |   |                                 |
|--|---------------------------------|---|---------------------------------|
| Has consideration been given to Rural Needs? | <input type="text" value="No"/> | Has a Rural Needs Impact Assessment (RNIA) template been completed? | <input type="text" value="No"/> |
|--|---------------------------------|---|---------------------------------|

**If no, please given explanation/rationale for why it was not considered necessary:**

This is a report providing notification of a Court judgement. RNIA not required.

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in

accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration”.

**APPENDICES:**

**APPENDIX 4 – CPRE (Somerset), R (On the Application Of) v South Somerset District Council [2022] EWHC 2817**

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

If Yes, please insert date:



Neutral Citation Number: [2022] EWHC 2817 (Admin)

Case No: CO/1794/2022

**IN THE HIGH COURT OF JUSTICE**  
**KING'S BENCH DIVISION**  
**ADMINISTRATIVE COURT**  
**SITTING AT BRISTOL CIVIL JUSTICE CENTRE**

Bristol Civil Justice Centre  
2 Redcliffe Street  
Bristol BS1 6GR

Date: 08/11/2022

Before:

**MR JUSTICE CHAMBERLAIN**

Between:

**THE KING**  
**on the application of**  
**CPRE (SOMERSET)**

**Claimant**

- and -

**SOUTH SOMERSET DISTRICT COUNCIL**

**Defendant**

-and-

- (1) ILMINSTER TOWN COUNCIL**
- (2) THE DILLINGTON ESTATE**

**Interested Parties**

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**Richard Moules** (instructed by **Khift Ltd**) for the **Claimant**  
**Annabel Graham Paul** (instructed by **Bevan Brittan LLP**) for the **Defendant**

Hearing dates: 12 October 2022

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**Approved Judgment**

.....

MR JUSTICE CHAMBERLAIN



## Mr Justice Chamberlain:

### Introduction

- 1 Carnivals have played an important part in the cultural life of Somerset since the seventeenth century. They involve, among other things, processions of floats, which are constructed and elaborately decorated by local carnival clubs.
- 2 On 8 April 2022, South Somerset District Council (**the District Council**) granted an application by Ilminster Town Council (**the Town Council**) for planning permission for the erection of five self-contained buildings to store and facilitate construction of carnival floats on what is at present agricultural land owned by the Dillington Estate (**Dillington**) at Longforward Lane, Ilminster (**the Site**). This followed a 6-5 vote by the Area West Planning Committee (**the Planning Committee**) at a meeting on 19 January 2022. Under the District Council's scheme of delegation, the Planning Committee is responsible for considering planning applications relating to the area which includes Ilminster.
- 3 CPRE Somerset (**CPRES**) is the Somerset branch of CPRE, the Countryside Charity, formerly the Council for the Preservation of Rural England. It contends that the decision of the Planning Committee was tainted by apparent bias on the part of its Chair and Vice-Chair and therefore unlawful. It has brought this claim to quash the planning permission.
- 4 The basis for CPRES's claim is as follows:
  - (a) Councillor Brian Hamilton (**Cllr Hamilton**), the Vice-Chair of the Planning Committee, was Deputy Major of Ilminster and a member of the Town Council which had made the planning application. As such, he was automatically disqualified from participating in the process to determine it, or was otherwise tainted by apparent bias.
  - (b) Councillor Jason Baker (**Cllr Baker**), the Chair of the Planning Committee, was a member of the Chard Carnival Committee (**the CC Committee**), in which capacity he public supported the planning application. He was also a close affiliate of the South Somerset Carnival Park Committee (**the SSCP Committee**), which acted as agent for the applicant Town Council. As such he was tainted by apparent bias.
  - (c) Because of these interests, Cllr Hamilton and/or Cllr Baker approached the planning application with closed minds so that the decision to grant planning permission was predetermined.
- 5 Permission to apply for judicial review was granted by David Elvin QC sitting as a Deputy High Court Judge on 8 July 2022.
- 6 The substantive hearing was listed for 12 October 2022. There was an unopposed application to adjourn it because CPRES's counsel was engaged in a public inquiry elsewhere. I refused the application because this claim affects third parties and there is a public interest in its expeditious determination. The hearing proceeded as listed. In the event, CPRES's counsel, Mr Richard Moules, was able to attend. The District Council was represented by Mrs Annabel Graham Paul. I am grateful to both counsel for their excellent written and oral submissions.

## Background

- 7 Carnivals take place in many towns in Somerset. In each town, the organisation of the carnival is undertaken by a local carnival committee. The committees in Wellington, Chard, Ilminster and Taunton came together to form the South Somerset Federation of Carnivals (**the Federation**). In each town there are also carnival clubs, which construct and decorate the floats and enter them in carnivals across the county.
- 8 In 2015, a proposal was advanced for a “carnival park” for use by clubs in the Federation towns. This was to include five self-contained sheds or buildings where carnival clubs could construct and decorate their floats. The SSCP Committee was set up. It entered into an in-principle agreement with a local landowner, Dillington, for a 25-year lease of the Site. The fee payable by applicants for planning permission is reduced where the applicant is a town or parish council, so it proposed that the application should be made by the Town Council, which agreed. The question whether it was lawful for the Town Council to agree to be an applicant for that reason does not arise for decision in this case.
- 9 An application for planning permission, with the Town Council named as applicant, was made in 2018. There was a meeting of Town Council on 15 September 2020, attended by Cllr Hamilton, at which a speaker asked about the Town council’s support for the application. Cllr Burton, the then Mayor of Ilminster, reiterated the Town Council’s support for it.
- 10 Cllr Hamilton was also present at meetings of the Town Council’s Planning, Highways and Transport Committee on 6 July 2021 and 3 August 2021. At the first of these meetings, members were informed that the District Council’s planning department had raised concerns about the validity of the application, because of the absence of any record of a resolution of the Town Council authorising it. At the second, the committee resolved unanimously to refer the matter to the full Town Council.
- 11 On 17 August 2021, the full Town Council met. One of the items on the agenda was the application. Cllr Hamilton declared an interest as Vice-Chair of the District Council’s Planning Committee (which would have to consider the application) and left the room while this item was being discussed. In his absence, the Town Council resolved to allow itself to be named as applicant in a resubmitted application and to issue a letter supporting the ethos and reasons behind the need for a park to be built.
- 12 The application was resubmitted on 6 September 2021 in materially the same form as the 2018 application. The officers’ report noted that the Site was in the open countryside, where development was not normally supported. The main consideration which could justify the grant of planning permission was described as follows:

“The proposal is not for an industrial/commercial use and is unique in it being for carnival clubs.

Carnivals in Somerset are part of the culture and have been around for hundreds of years. The clubs are non-profit making and help to raise money for charities and also provide work skills for youngsters who get involved with the build process etc. The purpose of this application is to secure permanent facilities so that clubs can grow and be maintained. Currently the

clubs operate from different sites and the aim is to bring at least five clubs to one site which will help share the costs to run it.”

- 13 The report went on to note that the rent had been set at a level “akin to agricultural values” and then said this:

“Local landowners Dillington Estates have agreed to grant South Somerset Carnival Park Committee a lease of the field (see below for more information). We have considered and assessed in-town commercial units (existing and proposed) and the level of rent commanded simply makes this type of building unviable. Furthermore the Carnival Park Committee has no covenant strength or income therefore is not an attractive tenant for a commercial business owner.

The rent will be proportionately split between the clubs and committees occupying the buildings to include Ilminster based Harlequin, Gemini, 1 + 1 and Extreme Carnival Clubs, Chard based Eclipse and the four South Somerset federation towns. At present each carnival club pays an annual rent for their existing premises and the proposed rent level of the carnival park is below these current rent levels and is therefore financially viable.

South Somerset Carnival Park Committee (SSCPC) will be the tenant and will sub-let to the carnival clubs and committees. SSCPC will be the management company and will put in place controls within each sub-lease to control the management of the site.”

- 14 On balance, officers concluded that the material economic and social benefits were sufficient to outweigh the possible environmental effects of the scheme, in part due to the fact that environmental impacts could be partly offset by mitigation secured by planning conditions.
- 15 On 14 January 2022, CPRES wrote to the District Council’s Monitoring Officer saying that six members of the Planning Committee had personal interests in the application arising from their membership of the Town Council (Cllrs Hamilton and Keitch) or the CC Committee (Cllrs Baker, Kenton, Bulmer and Wale) and asking for consideration of the application to be deferred until these concerns were addressed.
- 16 The Planning Committee met on 19 January 2022. Cllrs Hamilton and Baker both declared a “personal interest” under the District Council’s Member Code of Conduct (**the Code**) but, on the advice of the Monitoring Officer, took the view that they did not have a “prejudicial interest” on a proper interpretation of the Code. They participated in the meeting and decision and both voted in favour of the grant of planning permission. Cllrs Keitch, Bulmer and Kenton declared personal interests under the Code and did not participate in the meeting or decision-making process. Cllr Wale declared a “personal interest” but, again on the advice of the Monitoring Officer, did not consider that he was precluded from participating and did participate, voting against the grant of planning permission. The Committee voted 6-5 to grant planning permission.

### The Code

- 17 The Code provides under the heading “Introduction and Interpretation” as follows:

“As a member and representative of this Council it is your responsibility to comply with this Code when you undertake or claim to be undertaking Council business or give the impression that you are undertaking Council business.

As a representative of this Council your actions impact on how the Council as a whole is viewed by the public. It is important, therefore, that you do not do anything when undertaking Council business which you could not justify to the public. It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.”

18 The material operative parts of the Code are as follows:

**“Personal Interests**

2.8 (1) You have a personal interest in any business of the Council where:

a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;

(ii) any body—

(a) exercising functions of a public nature;

(b) established for charitable purposes; or

(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;

b) a decision in relation to any business of the Council might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a significant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division, as the case may be, affected by the decision;

(2) Subject to sub-paragraphs (3) to (5) below, where you are aware of a personal interest described in paragraph (1) above in any business of the Council, and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the start of the consideration of that business, or when the interest becomes apparent to you.

...

### Prejudicial Interests

- 2.9 (1) Where you have a personal interest in any business of your Council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business—
- (a) affects your financial position or the financial position of a significant person; or
  - (b) relates to determining any approval, consent, licence, permission or registration in relation to you or any significant person.

For the avoidance of doubt and by way of explanation where you are also a member of Somerset County Council and/or a Town or Parish Council within South Somerset you must declare a prejudicial interest in any business of South Somerset District Council where there is a financial benefit or gain or advantage to Somerset County Council and/or a Town or Parish Council which would be at the cost or to the financial disadvantage of South Somerset District Council.

- (2) Subject to paragraph (3) and (4), where you have a prejudicial interest in any business of your Council—
- (a) You may not participate in any discussion of the matter at a meeting.
  - (b) You may not participate in any vote taken on the matter at a meeting.
  - (c) You must disclose the existence and nature of the interest to the meeting and leave the room where the meeting is held while any discussion or voting takes place on the matter. The exception to the requirement to disclose the detail of the interest is if the matter is a sensitive interest under paragraph 2.11. In these circumstances you need only state that you have a prejudicial interest and that the details are withheld because of the sensitive information involved.
- (3) Where you have a prejudicial interest in any business of your Council, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business and you leave the meeting room immediately after making representations, answering questions or giving evidence.

- (4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of your Council in respect of—
- (i) housing, where you are a tenant of your Council provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) an allowance, payment or indemnity given to members;
  - (v) any ceremonial honour given to members; and
  - (vi) setting council tax or a precept under the Local Government Finance Act 1992.
- (5) Where, as a Executive member, you may take an individual decision, and you become aware of a prejudicial interest in the matter which is the subject of the proposed decision you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek to influence a decision about the matter.”

19 “Significant person” is defined in Schedule 2 to the Code as follows:

“‘significant person’ in relation to personal and personal and prejudicial interests means a member of your family or any person with whom you have a close association; or any body-

- (1) of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
- (2) exercising functions of a public nature;
- (3) established for charitable purposes; or
- (4) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management.”

**The law on bias and predetermination**

- 20 It is common ground that the test for deciding whether the decision of a planning committee was vitiated by bias was stated by Lord Hope in *Porter v Magill* [2001] UKHL 68, [2002] 2 AC 357, at [103]: whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the committee was biased. The fair-minded observer has full knowledge of the facts and is “neither complacent nor unduly suspicious”: *Belize Bank Ltd v Attorney General of Belize* [2011] UKPC 36, [36] (Lord Kerr).
- 21 There is an earlier line of authorities which identifies situations in which a judge or other decision-maker whose activities are governed by public law is automatically disqualified on the ground of apparent bias. This is so where the decision-maker is himself a party to the proceeding, the paradigm instance of a breach of the *nemo iudex in causa sua* principle. Similarly, the decision-maker will be automatically disqualified where he has a personal or pecuniary interest in the outcome, however small: *Dimes v Proprietors of Grand Junction Canal* (1852) 3 HL Cas 759.
- 22 In *R v Bow Street Metropolitan Stipendiary Magistrate ex p. Pinochet Ugarte (No. 2)* [2000] 1 AC 119, automatic disqualification was extended to cover the case where a judge was director of a charitable company controlled by an intervenor in the proceedings. There was, it was said, “no room for fine distinctions” if the principle was to be observed that justice should not only be done but seen to be done: 135E-F (Lord Browne-Wilkinson).
- 23 In *Meerabux v Attorney General of Belize* [2005] UKPC 12, [2005] 2 AC 513, the Privy Council had to consider whether a member of a disciplinary committee hearing a complaint brought by the Bar Association was tainted by apparent bias because, as a barrister, he was a member of the Bar Association. Lord Hope, giving the judgment of the Board, noted that it was unlikely that the House of Lords in *Pinochet (No. 2)* would have had to reach for the concept of automatic disqualification if the *Porter v Magill* test had been available and that the latter test should in future be applied to all cases where the decision-maker had no personal or pecuniary interest: [22] and [25].
- 24 At [24], Lord Hope said that the decision-maker had taken no part in the decisions which led to the complaint being made and had no power to influence the decision whether they should be brought. That being so, his membership of the Bar Association was “in reality of no consequence”. He continued as follows:
- “As Professor David Feldman has observed, the normal approach to automatic disqualification is that mere membership of an association by which proceedings are brought does not disqualify, but active involvement in the institution of the particular proceedings does: Feldman, *English Public Law* (2004), para 15.76, citing *Leeson v General Council of Medical Education and Registration* (1889) 43 Ch D 366 where mere membership of the Medical Defence Union was held not to be sufficient to disqualify and *Allinson v General Council of Medical Education and Registration* [1894] 1 QB 750 where mere ex officio membership of the committee of the Medical Defence Union too was held to be insufficient. The same contrast between active involvement in the affairs of an association and mere membership is drawn by Shetreet, *Judges on Trial* (1976), p 310. Their Lordships are of the

opinion that the principle of automatic disqualification does not apply in this case.”

- 25 Predetermination is a different, though related concept. A decision may be vitiated by predetermination where there is a “real risk that minds were closed”, but in assessing that question in the planning context, the courts must recognise that “councillors are not in a judicial or quasi-judicial position but are elected to provide and pursue policies” and “would be entitled, and indeed expected, to have and to have expressed views on planning issues”: *R (Lewis) v Redcar and Cleveland Borough Council* [2008] 2 P&CR 21, [68]-[69] (Pill LJ).

### Submissions for CPRES

- 26 For CPRES, Mr Moules submitted that Cllr Hamilton was automatically disqualified from considering whether to grant planning permission. Although he had no personal pecuniary interest in the outcome, he was a member of the application body. Whilst the statutory scheme authorises a local planning authority to determine planning applications in which it is itself the applicant (subject to appropriate internal separation of functions between council officers), there is no statutory authorisation for an individual councillor to participate in determining a planning application made by a third-party applicant of which he is also a member.
- 27 Cllr Hamilton attended three meetings where the 2018 Application was discussed, from which a consensus supportive of the proposed development emerged. In those circumstances, the legal prohibition on his participation was not overcome by his decision to recuse himself from the meeting on 17 August 2021.
- 28 The facts of the present case are not analogous to those in *Meerabux*. First, because Cllr Hamilton took part in meetings discussing what in substance was the same proposed development, he is not in a comparable position to the decision-maker in *Meerabux*, whose “detachment from the cause that the Bar Association was seeking to promote was complete” (see at [24]). Second, in *Meerabux*, the decision-maker’s connection to the Bar Association was more remote than Cllr Hamilton’s to the Town Council here. The Chairman was required to be a member of the Bar Association simply because he was an attorney-at-law, but he was not a member of the Bar Committee of the Bar Association on whose initiative the complaints had been made (see at [23]). By contrast, Cllr Hamilton is one of 15 members of the Town Council and he attended meetings of the Town Council’s Planning, Highways and Transport Committee.
- 29 Mr Moules submitted that the Code was relevant, though not determinative. He did not initially submit that this was a situation giving rise to a prejudicial interest under the Code, but adopted that submission when I suggested it in argument. If the Code was breached, that was relevant, though not determinative of the question whether Cllr Hamilton had a disqualifying interest at common law.
- 30 Even if Cllr Hamilton’s interest did not fall to disqualify him automatically, Mr Moules submits that the circumstances nonetheless satisfy the *Porter v Magill* test for apparent bias; and the same is true for Cllr Baker. He relies on a number of factors:
- (a) The officers’ report advised that “the main crux of consideration” was whether the economic and social benefits of carnival outweighed the identified environmental



harm, so that development in the open countryside (which would normally not be permitted) was acceptable.

- (b) Both the application and officers' report presented the proposed development as being needed to secure the "continued viability, in the current format, of the remaining clubs and the South Somerset Federation itself, in the medium term".
  - (c) The SSCP Committee, which was the agent for the Application, was formed specifically to identify a site and obtain planning permission for a carnival park. The application contained a photograph of Cllr Baker amongst SSCP members/supporters, actively "raising awareness".
  - (d) The application stated that the SSCP Committee's endeavours had "support from all key local clubs and carnival committees alike" – which includes Eclipse and the CC Committee both of which Cllr Baker is or has been involved with as an officer or member.
  - (e) Insofar as the District Council relies on a distinction between CC Committee (which arranges the annual carnival in Chard) and the individual carnival clubs (local organisations which create floats to enter into different carnivals), Cllr Baker has in any event been a member of the Chard-based carnival club Eclipse, which was identified in the application as having raised money for it.
  - (f) The officers' report quoted from information provided in support of the 2018 application, which stated that "Chard based Eclipse" was one of the clubs/committees that would occupy the development and contribute towards the rent.
  - (g) As to the relationship between CC Committee and the SSCP Committee (which was the agent for the Application): (i) Cllr Baker actively campaigned with the SSCP Committee; and (ii) the application stated that the other carnival committees in the Federation (which includes the CC Committee) "are also supportive of the application".
  - (h) Cllr Baker has a long-standing history of involvement with carnival clubs and committees.
  - (i) On 11 October 2021, Cllr Baker made a statement as Chair of CC Committee in respect of the Chard Carnival 2021 which concluded "we need to support the clubs that took part and keep this amazing tradition alive for years to come".
- 31 In the Statement of Facts and Grounds and in his skeleton argument, Mr Moules submitted that, even if Cllrs Hamilton and Baker were not tainted by apparent bias, they had nonetheless approached the planning application with closed minds so that their decision was vitiated by predetermination. That submission was not developed orally. For reasons which will become clear, I need not consider it further.

### **Submissions for the District Council**

- 32 For the District Council, Mrs Graham Paul submitted that, in the planning context at least, questions of apparent bias should always be approached by applying the *Porter v Magill*

test. There was no place for the concept of automatic disqualification. In any event, *Meerabux* shows that mere membership of an organisation which is a party to the proceeding does not automatically disqualify; some kind of active involvement is required.

- 33 Cllr Hamilton's membership of the Town Council was not disqualifying, because he had no active involvement in the making of the application. In particular:
- (a) He was not a member of the Town Council at the time when the 2018 (invalid) application was submitted.
  - (b) On 15 September 2020, shortly after he became a Town Councillor, there was a short discussion at a meeting noting the Town Council's historic support for the 2018 application. There is no record of him playing an active role in this discussion.
  - (c) Cllr Hamilton attended two sub-committee meetings of the Town Council's Planning, Highways and Transport Working Group (6 July and 3 August 2021) where the procedural inadequacies with the 2018 application were discussed. It was noted that the power to decide to submit the application lay with the full Town Council and not with the Working Group. For that reason, it was resolved to accept that the 2018 application was invalid and to refer the new application to the full Council. This was nothing more than an internal procedural discussion for the Town Council. There was no discussion of the merits of the application and no resolution to support it.
  - (d) Conscious that he may be called upon to decide the planning application as a member of the District Council's Planning Committee, Cllr Hamilton properly recused himself from the full Town Council meeting on 17 August 2021 where it was decided to re-submit the planning application and to approve a letter supporting the ethos and reasons behind the need for it.
  - (e) Cllr Hamilton properly declared a personal interest in the application as a Town Councillor. Furthermore, he did not breach the Code. Even if he did, it does not automatically follow that the decision-making process is unlawful: *R (Taylor) v Maidstone Borough Council* [2004] EWHC 257 (Admin).
- 34 In these circumstances, a fair-minded and informed observer would not conclude that there was a real possibility that Cllr Hamilton was biased.
- 35 As to Cllr Baker:
- (a) He is not a member or involved in any way with the developer of the scheme, SSCP Committee, and has no personal financial interest in the outcome. CC Committee, of which he is Chair, simply organizes the annual carnival event in Chard. It has nothing to do with constructing and displaying carnival floats and is not an intended beneficiary of the development. It did not provide any financial support to the SSCP Committee.
  - (b) Neither a past involvement with one of the carnival clubs nor a general interest in South Somerset carnivals generally gave rise to a real possibility of bias.

- (c) The fact that the organisation which he chairs supports the development as a whole does not mean that he himself is personally supportive. This is demonstrated by the fact that Cllr Wale, who is also involved with the CC Committee, voted against the application. As Cllr Baker himself said at the meeting, it is no different from being a member of the National Farmers' Union and sitting on a farming application. By way of analogy, in *R (Port Regis School Ltd) v North Dorset District Council* [2006] EWHC 742 (Admin), there was no real possibility of bias where a freemason councillor participated in a planning development benefitting a masonic lodge. General support for a type of development or applicant is not to be equated to apparent bias for any individual application.
- (d) The photograph of Cllr Baker holding a leaflet at the SSCP Committee stand at an event "among the South Somerset carnival supporters" shows no more than that he visited the SSCP Committee's stand and associated with its members. The press article contains no statement from him expressing any views on the scheme. He is not even described as a "supporter". He is described as being "among the South Somerset carnival supporters". In any event, even if the photograph could be seen to be an expression of Cllr Baker's support for the scheme, Councillors are entitled, and indeed are expected, to express views on the merits of a planning applications: see *Lewis v Redcar Borough Council*. There is no evidence of any inappropriate "closeness" between Cllr Baker and the developers of the scheme, as was the case in *R (Ghadami) v Harlow District Council* [2004] EWHC 1883 (Admin).

## Discussion

- 36 I have considered the positions of Cllrs Hamilton and Baker separately.
- 37 As to Cllr Hamilton, neither counsel placed much emphasis on the Code. Both said that the key question was whether his situation gave rise to apparent bias at common law.
- 38 Mrs Graham Paul relied on *R (Taylor) v Maidstone Borough Council* to show that a breach of the Code would not necessarily render the resulting decision unlawful. In my judgment, it does not establish that proposition. In *Taylor*, there had been a breach of a different code, adopted under the Local Government Act 2000, containing procedural requirements for dealing with planning applications. The requirement in question concerned the right of interested parties to address the planning committee: see [5]. Planning permission was refused. The claimant had appealed to the Secretary of State. In that context, it was said that judicial review was not the appropriate remedy, because the real issue was whether the local authority had been right to grant planning permission and that would be determined on appeal: see [25]. *Taylor* is therefore a case about alternative remedies, which does not provide any assistance as to the legal effect of local authority codes of conduct. In the present case, planning permission was granted and there is no alternative remedy.
- 39 The legal effect of the Code therefore has to be considered from first principles. Mr Moules did not submit that breach of the Code provides a freestanding ground for challenging the resulting decision – for example because the Code is an outward-facing published policy, which must be complied with absent good reason to depart from it. Such a submission would have been inconsistent with the Localism Act 2011, which requires local authorities to adopt and maintain codes of conduct. Section 28(4) of that Act provides as follows:

“A failure to comply with a relevant authority’s code of conduct is not to be dealt with otherwise than in accordance with arrangements made under subsection (6); in particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure to comply with the code.”

The arrangements in subsection (6) concern investigating and adjudicating on allegations of breach of the code.

- 40 But to say that a decision is not invalidated “just because” the process of making it involved a failure to comply with the code is not to say that such a failure must be ignored when considering the validity of the decision.
- 41 Local authorities could draft their codes of conduct to say, simply, that a prejudicial interest will arise whenever a person has an interest which a fair-minded and informed observer would regard as giving rise to a real possibility of bias (or words to that effect). But that would be unhelpful to councillors and to members of the public alike, because it is not always easy to predict how the common law test will be applied by others. So, local authorities generally go further and specify particular kinds of interests and connections which will, and will not, be disqualifying.
- 42 The process of drafting a code of conduct requires the local authority to take a considered view, in advance, about situations which its members are likely to face and decide whether they should, or need not, disqualify themselves in those situations. The draft will be tailored to the circumstances of the local authority in question and can then be the subject of local consultation and debate. This process not only delivers greater certainty, but also promotes good administration by holding elected representatives to reasonably precise standards, adopted in advance with a democratic imprimatur.
- 43 Against this background, it would be surprising if compliance with the code of conduct were categorically irrelevant to the question whether the apparent bias test was met. I accept that it cannot be determinative, but it is surely a matter which the fair-minded observer would take into account in deciding whether there was a real possibility of bias. Providing that the definition of “prejudicial interest” is a reasonable one, and other things being equal, a fair-minded observer would consider that a member who had no prejudicial interest was less likely to be biased; and that, other things being equal, a member who had a prejudicial interest was more likely to be biased.
- 44 This means that the construction of the Code is of some relevance. It is, therefore, unfortunate that its para. 2.9 is a textbook case of syntactic ambiguity. It is structured to specify that a personal interest will be prejudicial “where X and where Y or Z”. (X denotes the case where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the councillor’s judgement of the public interest; Y is the case where the business affects the councillor’s financial position or the financial position of a significant person; and Z is the case where the business relates to determining any approval, consent, licence, permission or registration in relation to the councillor or any significant person.)

- 45 Saying that an interest will be prejudicial “where X and where Y or Z” could mean:
- (a) an interest will be prejudicial in any of cases X, Y or Z; or
  - (b) an interest will be prejudicial only where X and Y or X and Z.
- 46 The Monitoring Officer read para. 2.9 in the second sense. If correct, this would suggest that:
- (a) only some cases where the councillor himself has a financial interest in the outcome of the application give rise to a prejudicial interest (whereas *Dimes* says that all such cases give rise to automatic disqualification); and
  - (b) a councillor can never have a prejudicial interest if the business does not affect his financial position or that of a significant person and does not relate to determining any approval, consent, licence, permission or registration in relation to him or a significant person (even if a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the councillor’s judgement of the public interest). On this reading a councillor who was chairman of an advocacy organisation objecting to the planning permission (such as CPRE) would not have a prejudicial interest, even if he had been personally responsible for formulating and advancing the objection (and so would plainly satisfy the test for apparent bias at common law).
- 47 In my judgment, it is more plausible to read para. 2.9 in the first sense set out at para. 43 above. Read in that way, a councillor will always have a prejudicial interest if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the councillor’s judgement of the public interest. He will also have a prejudicial interest where the business affects his financial position or that of a significant person, or relates to determining any approval, consent, licence, permission or registration in relation to him or a significant person. These latter cases are specific instances where a prejudicial interest will automatically arise.
- 48 The paragraph beginning “For the avoidance of doubt” does not help much in determining which of the two interpretations is correct. On either view, it is badly drafted. On the Monitoring Officer’s interpretation, the case specified in that paragraph is not aptly introduced by the words “For the avoidance of doubt”; and it is unclear why a prejudicial interest should automatically arise in that case, but not where the party benefitting at the expense of the District Council is the councillor himself (see para. 45(a) above). On the interpretation I prefer, the concluding words (“which would be at the cost or to the financial disadvantage of South Somerset District Council”) are otiose, since the main provision makes clear that any business which affects the financial position of the councillor himself or Somerset County Council or a town or parish council will automatically give rise to a prejudicial interest. But on this view para. 2.9, read as a whole, is – at least – coherent.
- 49 It follows from this discussion that, in my judgment, the Monitoring Officer’s advice was wrong. Because the business being discussed on 17 August 2021 involved determining a permission relating to the Town Council (a “significant person”), Cllr Hamilton automatically had a prejudicial interest. None of the exceptions in para. 2.9(4) applied, so he was disqualified from voting.

- 50 In my judgment, this affects what the fair-minded observer would think about Cllr Hamilton's participation in the Planning Committee meeting. Although he had not himself promoted the application, or voted to make it, he was nonetheless a member of a relatively small public body whose application he was being asked to consider. The passage quoted above from [24] of Lord Hope's judgment in *Meerabux* shows that mere membership of an organisation party to a proceeding does not automatically disqualify and that active involvement in the institution of the particular proceedings does automatically disqualify. This does not mean that, without such active involvement, there will never be apparent bias. As Lord Hope made clear at [25], that will depend on an application of the *Porter v Magill* test, which is fact-specific.
- 51 In this case, the relevant facts are these. Cllr Hamilton was one of 15 members of the Town Council and was Deputy Mayor. He was present at meetings where support for the application was expressed. Although he did not participate, the Town Council voted to become the applicant and to indicate its support by letter. On a proper construction of the Code, he had a prejudicial interest, which disqualified him from participating in the decision-making process. When taking all these facts into account, a fair-minded member of the public would conclude that there was a real possibility that he would be biased in favour of the Town Council's application.
- 52 The Code does not assist in answering the question whether Cllr Baker was tainted by apparent bias. The applicability of the Code in his case depended solely on whether a member of the public with knowledge of the relevant facts would reasonably regard his interest as so significant that it was likely to prejudice his judgement of the public interest. But this is a paraphrase of the *Porter v Magill* test.
- 53 In my judgment, however, the *Porter v Magill* test was clearly satisfied. Cllr Baker had a longstanding association with both the CC Committee and the Eclipse carnival club. The application was presented as needed to secure the continued viability in the medium term of both the Federation (of which the CC Committee was a constituent part) and the remaining carnival clubs (of which Eclipse was one). Both the Federation's constituent committees (including the CC Committee) and the clubs (including Eclipse) were said to be supportive of the application. Eclipse appears to have had a financial interest in the outcome, because, as the application made clear, the rent it and the other clubs would pay under the agreement with Dillington was lower than for its existing premises. Cllr Baker was personally pictured in the application documents among a group of individuals appearing to support the SSCP Committee (which was agent for the application). Nice distinctions of the kind relied upon by Mrs Graham Paul ("among the South Somerset carnival supporters" rather than "a supporter") have no place in an analysis of this kind: the fair-minded observer would place more weight on the impression created by the article and picture than by a minute linguistic analysis of the caption. Such an observer would clearly conclude that there was a real possibility of bias.
- 54 This conclusion is not undermined by the fact that Cllr Wale, who is also involved with the CC Committee voted against the application. I have not heard enough about Cllr Wale's circumstances to know whether his interest in the outcome of the application was similar to that of Cllr Baker. But even if it was, the fact that one member with a particular interest voted against an application does not show that another with the same interest was not tainted by apparent bias.

- 55 Having found that both Cllrs Hamilton and Baker were tainted by apparent bias, it follows that the decision to grant planning permission was unlawful. Although there are some cases where bias or predetermination on the part of a single member of a large committee has been held not to vitiate the committee's decision, the vote in this case was 6-5 in favour of grant and Cllrs Hamilton and Baker were Vice-Chair and Chair of the Committee. It is simply not possible to say what the outcome would have been if they had recused themselves, as the law required.

**Conclusion**

- 56 For these reasons, the planning permission is vitiated by apparent bias on the part of Cllrs Hamilton and Baker and will be quashed. The District Council will now have to make arrangements to determine the application according to law.
- 57 This outcome does not reflect adversely on the integrity or professionalism of either councillor. Both councillors declared their interests openly. Neither attempted to hide their associations. Both followed the advice of the Monitoring Officer. That advice flowed from her honest analysis and application of the Code. The Monitoring Officer went wrong in law, as many public decision-makers and most judges do at some point, but was not otherwise at fault.



## Planning Committee

**06 March 2023**

### Report from:

**Head of Planning and Capital Development**

### Item for Noting

**TITLE:** **Item 5 - Statutory Consultation Quarterly Performance Report - Q2 for 2022/23**

### Background and Key Issues:

#### **Background**

1. Statutory consultees play an essential role in the planning process for Planning Authorities and the consultation process is an important element of an open, transparent and democratic planning system.
2. Section 229(3) of the Planning NI Act 2011 provides the statutory basis on which a consultee must respond, e.g. they are required to give a substantive response within a prescribed time period or in a period as is agreed in writing between the consultee and the council or, as the case may be, the Department.
3. The Department for Infrastructure advise that they have been actively working with statutory consultees through a cross governmental Planning Forum to improve processes around statutory consultation.
4. Annual and quarterly reports provide details of the performance including the number of consultations and requests for advice made to the statutory consultees. These reports are available to view on the Department's website at



<https://www.infrastructure-ni.gov.uk/articles/statutory-planning-consultations-quarterly-annual-reports>

5. The Statutory Consultation Quarterly Performance report for Q2 of 2022/23 was published in February 2023 and highlights the performance of statutory consultees in the planning process. It provides details of the volume of statutory consultation that has taken place in the first six months of 2022/23. There was no report issued for the first quarter of 2022/23.

### **Key Issues**

1. In summary, the report notes the following:
  - That 6064 statutory consultations were raised. Of these, 5678 were in relation to local applications, 375 in relation to major applications and 11 were in relation to regionally significant applications.
  - 75% of statutory consultation in this quarter was responded to on time [ie within the 21 day response target or the extended target];
  - DfI Rivers, Historic Environment Division, DAERA, NI Water and DfI Roads were identified as most commonly consulted consultees.
2. The Department advise the information in this report is not considered official statistics and should not be quoted as such. A copy of the Quarter 2 report is provided (**see Appendix**). It will also be made available to view on the Department website in due course.
3. There is limited information available at a local Council area level but it is understood there is a lack of consistency in the timeliness of responses across Northern Ireland for some of the consultees. Officers will continue to engage at local level to ensure that consultations are only issued when required and that where backlogs exists these will be managed.

### **Recommendation:**

It is recommended that Members note the detail of the Statutory Consultation Quarterly Performance report for Q2 of 2022/23.

### **Finance and Resource Implications:**

There are no finance or resource implications.

## **Screening and Impact Assessment**

### **1. Equality and Good Relations**

Has an equality and good relations screening been carried out on the proposal/project/policy?

No

**If no, please provide explanation/rationale**

This is a report providing information on Statutory Consultation Quarterly Performance report for Q2 of 2022/23. EQIA not required.

If yes, what was the outcome:

**Option 1**  
Screen out  
without mitigation

N/A

**Option 2**  
Screen out with  
mitigation

N/A

**Option 3**  
Screen in for  
a full EQIA

N/A

**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

N/A

**Insert link to completed Equality and Good Relations report:**

## 2. Rural Needs Impact Assessment:

Has consideration been  
given to Rural Needs?

No

Has a Rural Needs Impact  
Assessment (RNIA) template been  
completed?

No

**If no, please give explanation/rationale for why it was not considered necessary:**

This is a report providing information on Statutory Consultation Quarterly Performance report for Q2 of 2022/23. RNIA not required.

**If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:**

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**APPENDIX 5 – Statutory Consultation Quarterly Performance report for Q2 of 2022/23**

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

**If Yes, please insert date:**

2022



# Statutory Consultations Quarterly Performance Report Q2 2022/23

This quarterly report highlights the performance of statutory consultees in the planning process. It provides details of the volume of statutory consultation that has taken place during the first six months of 2022/23 with comparative data back to 2019/20 when reporting began. The figures contained in this report are extracted from the Northern Ireland and the Mid Ulster Planning Portals, are management information, and should not be treated or considered as official statistics.

**\*\*\*THE INFORMATION IN THIS REPORT IS NOT CONSIDERED OFFICIAL STATISTICS AND SHOULD NOT BE QUOTED AS SUCH\*\*\***



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# Planning Statutory Consultations

## Q2 2022/23

**Statutory consultations**, for the purposes of this report, are 'Standard' and 'EIA Standard' consultations marked as 'Statutory' for application types 'full', 'outline' and 'reserved matters' on the NI Planning Portal

### Statutory consultations raised

#### Number of statutory consultations raised



**6,064** statutory consultations were raised in Q2 2022/23. Of these:

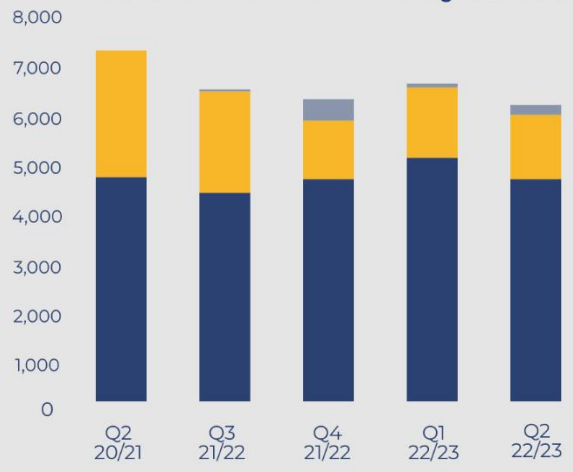


### Statutory consultations response times

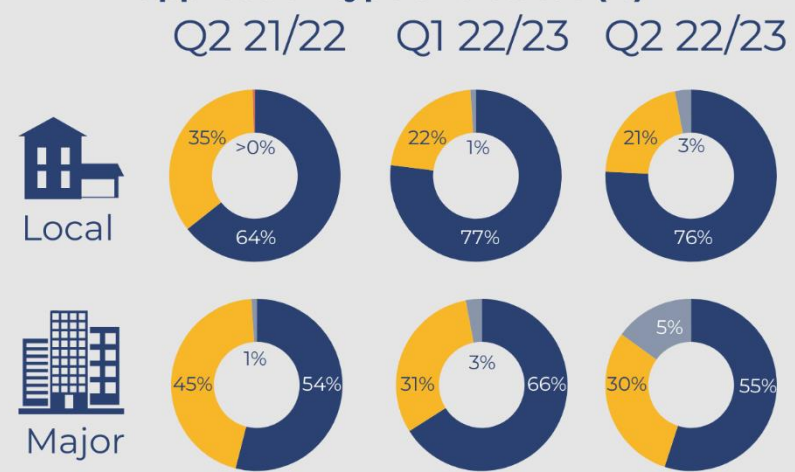


**75%** of statutory consultations in Q2 2022/23 were responded to on time (i.e. within the 21-day response target or the extended target)

#### Number of responses to statutory consultations received by status



#### Responses to statutory consultations received by application type and status (%)

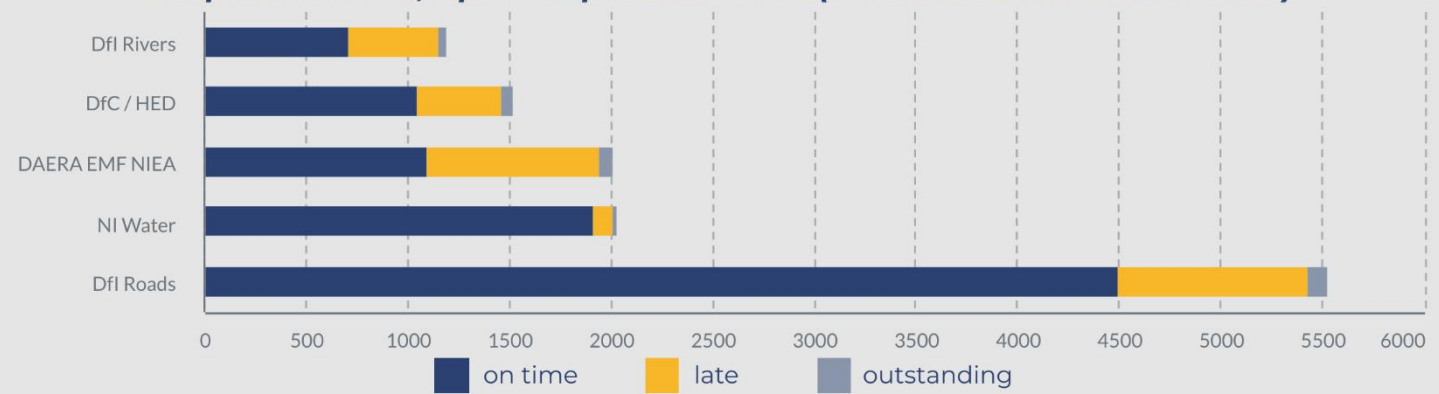


Legend: ■ on time ■ late ■ outstanding

Percentages may not sum to 100 due to rounding.

### Statutory consultees

#### Number of responses to statutory consultations received by statutory consultee and response status, April - September 2022 (5 most common consultees)



## Statutory Consultations Quarterly Report – Q2 2022/23

### Introduction

This quarterly report highlights the performance of statutory consultees in the planning process. It provides details of the volume of statutory consultation that has taken place during the first six months of 2022/23 with comparative data from previous years.

**The figures contained in this report are extracted from the Northern Ireland and Mid Ulster Planning Portals, are management information, and should not be treated as official statistics.**

### Statutory consultations

During the first six months of 2022/23 (April to September 2022) there were 20,587 consultations/advice queries raised. Of these, three-quarters (15,398; 75%) were sent to key statutory consultees<sup>1</sup>. Of these 15,398 consultations/advice queries raised, 82% (12,566) were deemed to be statutory consultations<sup>2</sup>, with the remainder largely made up of consultations on pre application discussions (666), discharge of conditions (517), listed building consents (382) and advertising (178).

The number of statutory consultations raised by application type is reported in Table 1 below. The series is available from 2019/20.

Table 1: *Number of statutory consultations raised by planning application type (Quarterly)*

| Year    | Quarter | Local | Major | Regional | Total |
|---------|---------|-------|-------|----------|-------|
| 2019/20 | Apr-Jun | 6,163 | 352   | 0        | 6,515 |
|         | Jul-Sep | 5,710 | 392   | 1        | 6,103 |
|         | Oct-Dec | 5,674 | 404   | 7        | 6,085 |
|         | Jan-Mar | 5,056 | 331   | 0        | 5,387 |
| 2020/21 | Apr-Jun | 4,052 | 272   | 1        | 4,325 |
|         | Jul-Sep | 6,007 | 335   | 0        | 6,342 |
|         | Oct-Dec | 5,991 | 327   | 7        | 6,325 |
|         | Jan-Mar | 6,352 | 374   | 3        | 6,729 |
| 2021/22 | Apr-Jun | 7,091 | 347   | 2        | 7,440 |
|         | Jul-Sep | 6,837 | 346   | 0        | 7,183 |
|         | Oct-Dec | 6,085 | 298   | 0        | 6,383 |
|         | Jan-Mar | 5,812 | 373   | 0        | 6,185 |
| 2022/23 | Apr-Jun | 6,131 | 363   | 8        | 6,502 |
|         | Jul-Sep | 5,678 | 375   | 11       | 6,064 |

Note: figures reported represent 'Standard' and 'EIA Standard' consultations marked as 'Statutory' for application types 'full', 'outline' and 'reserved matters' for the statutory consultees listed in [User Guidance](#) section.

<sup>1</sup> See [User Guidance](#) for a list of key statutory consultees.

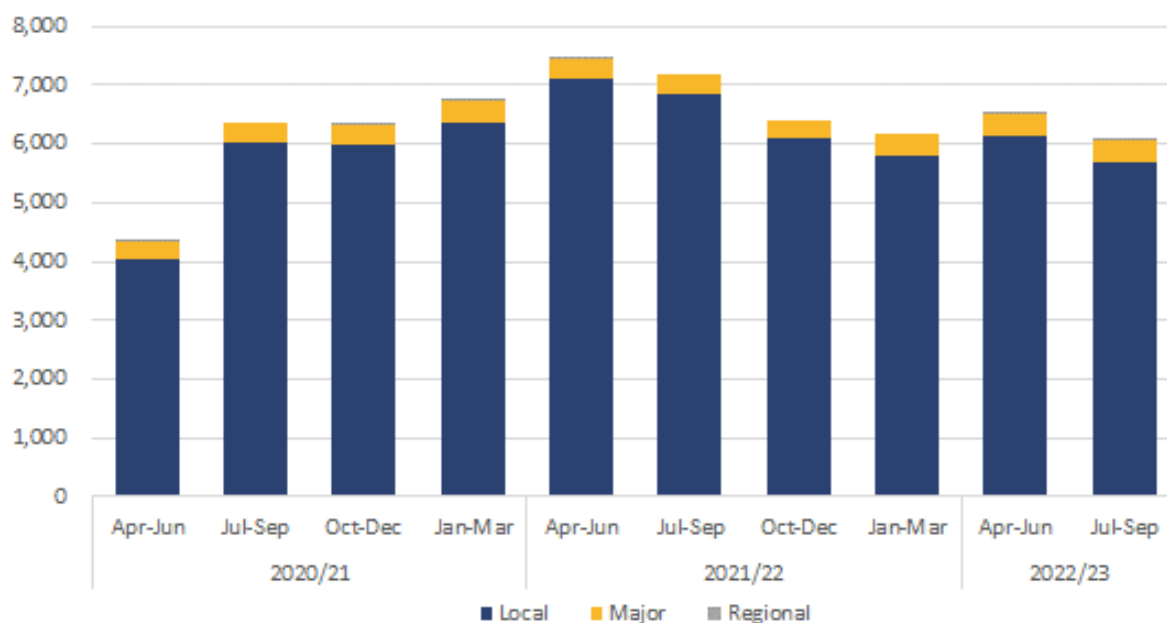
<sup>2</sup> A statutory consultation for the purpose of this report is considered as a 'Standard' or 'EIA Standard' consultation marked as 'Statutory' for application types 'full', 'outline' and 'reserved matters' for the statutory consultees listed in the [User Guidance](#) section.

Statutory consultations fell during Q4 2019/20 (January to March 2020) when compared with earlier quarters in that year. A further decrease was reported for Q1 2020/21 (April to June 2020), with the number of statutory consultations raised down by over one-third (34%) compared with the same quarter a year earlier. It is likely that this decrease was related to the reduction in the number of planning applications received over the same period, as a consequence of the coronavirus (COVID-19) pandemic.

In Q2 2020/21 (July to September 2020), 6,342 statutory consultations were raised; an increase of almost one-half (47%) from the previous quarter and a return to pre-Q4 2019/20 levels; this level of consultation continued during October to December 2020. Consultation then increased in the following two quarters, peaking in the first quarter of 2021/22 (April to June 2021) with 7,440 statutory consultations raised. Statutory consultation remained high in the following quarter before declining in Q3 2021/22. Consultation levels have been fairly stable for the last four quarters.

As in previous quarters, statutory consultations on local planning applications accounted for the vast majority of consultations raised in both Q1 and Q2 2022/23 (94%). See Chart 1.

Chart 1: Number of statutory consultations raised by planning application type (Q1 2020/21-Q2 2022/23)



### Planning Applications Received

With exception of a period impacted by the coronavirus pandemic, the number of planning applications received has remained relatively stable over the last five years; with 99% of all planning applications received being local.

During Q1 2020/21, the first full quarter impacted by the restrictions put in place due to the coronavirus pandemic, the number of applications received was 2,309. This was the lowest number received in any quarter since the series began in April 2002. The following four quarters recorded consecutive increases, peaking in Q1 2021/22. With the exception of a small increase in Q4 2021/22, the number of planning applications received has decreased in each quarter since that peak.



Table 2: *Number of planning applications received by planning application type (Q1 2019/20 – Q2 2022/23)*

| Year    | Quarter | Local | Major | Regional | Total |
|---------|---------|-------|-------|----------|-------|
| 2019/20 | Apr-Jun | 3,367 | 32    | 0        | 3,399 |
|         | Jul-Sep | 2,892 | 40    | 0        | 2,932 |
|         | Oct-Dec | 2,947 | 47    | 0        | 2,994 |
|         | Jan-Mar | 2,852 | 30    | 0        | 2,882 |
| 2020/21 | Apr-Jun | 2,284 | 24    | 1        | 2,309 |
|         | Jul-Sep | 3,231 | 34    | 0        | 3,265 |
|         | Oct-Dec | 3,557 | 30    | 0        | 3,587 |
|         | Jan-Mar | 3,637 | 35    | 0        | 3,672 |
| 2021/22 | Apr-Jun | 3,928 | 33    | 0        | 3,961 |
|         | Jul-Sep | 3,282 | 40    | 0        | 3,322 |
|         | Oct-Dec | 3,116 | 33    | 1        | 3,150 |
|         | Jan-Mar | 3,128 | 39    | 0        | 3,167 |
| 2022/23 | Apr-Jun | 3,017 | 35    | 0        | 3,052 |
|         | Jul-Sep | 2,627 | 36    | 0        | 2,663 |

Source: DfI Northern Ireland Planning Statistics

The ratio of all planning applications received against all statutory consultations issued is 1 to 2. Focussing on major and regionally significant, the ratio is 1 to 10<sup>3</sup>. See Table 3 below for more detail.

Table 3: *Ratio of planning applications received against statutory consultations raised<sup>4</sup> within each quarter by planning application type (Q1 2019-20 – Q2 2022/23)*

| Year    | Quarter | Local | Major/Regionally Significant | Combined Overall Ratio |
|---------|---------|-------|------------------------------|------------------------|
| 2019/20 | Apr-Jun | 2     | 11                           | 2                      |
|         | Jul-Sep | 2     | 10                           | 2                      |
|         | Oct-Dec | 2     | 9                            | 2                      |
|         | Jan-Mar | 2     | 11                           | 2                      |
| 2020/21 | Apr-Jun | 2     | 11                           | 2                      |
|         | Jul-Sep | 2     | 10                           | 2                      |
|         | Oct-Dec | 2     | 11                           | 2                      |
|         | Jan-Mar | 2     | 11                           | 2                      |
| 2021/22 | Apr-Jun | 2     | 11                           | 2                      |
|         | Jul-Sep | 2     | 9                            | 2                      |
|         | Oct-Dec | 2     | 9                            | 2                      |
|         | Jan-Mar | 2     | 10                           | 2                      |
| 2022/23 | Apr-Jun | 2     | 11                           | 2                      |
|         | Jul-Sep | 2     | 11                           | 2                      |

<sup>3</sup> Ratio for based on count of the five years data reported.

<sup>4</sup> Some consultations within each financial year will relate to planning applications that have been received in an earlier financial year. Although the counts of planning applications received and statutory consultations raised within a given period are not directly related it provides an indicative picture of the level of statutory consultation taking place on planning applications.

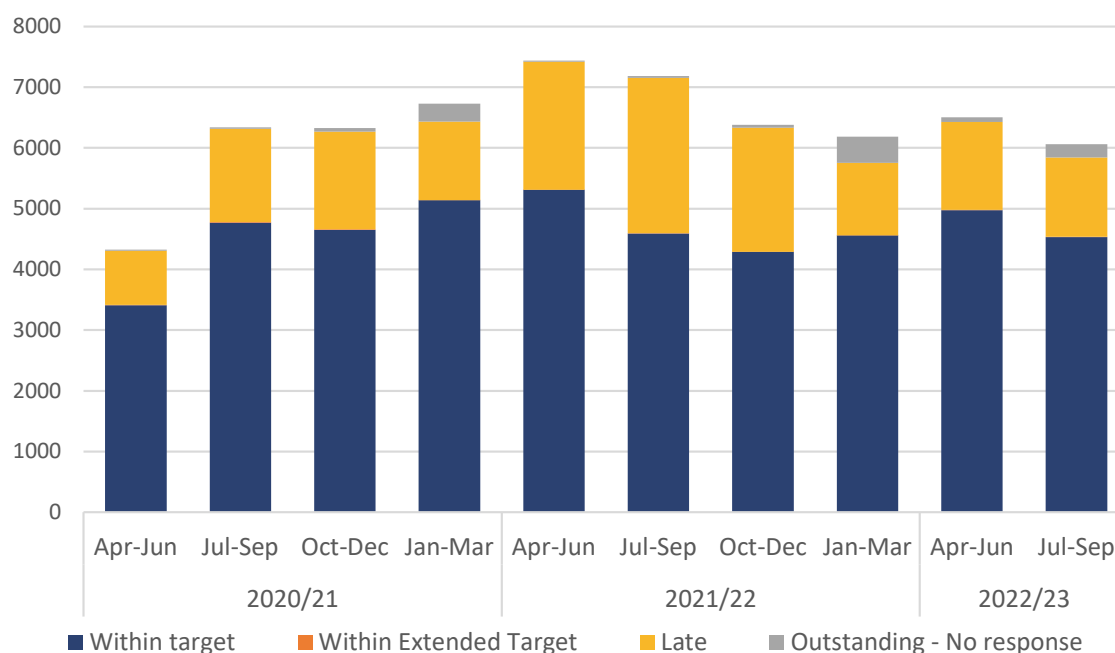
### Statutory consultations response times

During 2019/20 the proportion of statutory consultations responded to on time<sup>5</sup> was 69%, this rate increased to 76% in 2020/21. In 2021/22 the response rate has returned to 69% with 18,761 out of 27,191 statutory consultations responded to on-time. It is noteworthy that a much higher level of statutory consultation was carried out in 2021/22 (27,191) when compared to previous years (23,721 in 2020/21 and 24,090 in 2019/20).

In the first quarter of 2022/23 the overall response rate was 77% on-time, the second highest rate across the quarterly series available. This represented an increase over the quarter from the 74% reported for Q4 2021/22 and an increase over the year from the 71% reported for the same period in 2021/22. In the second quarter of 2022/23 the response rate was 75% on-time, a decline from 77% the previous quarter and an increase over the year from 64% in Q2 2021/22 (see Chart 2).

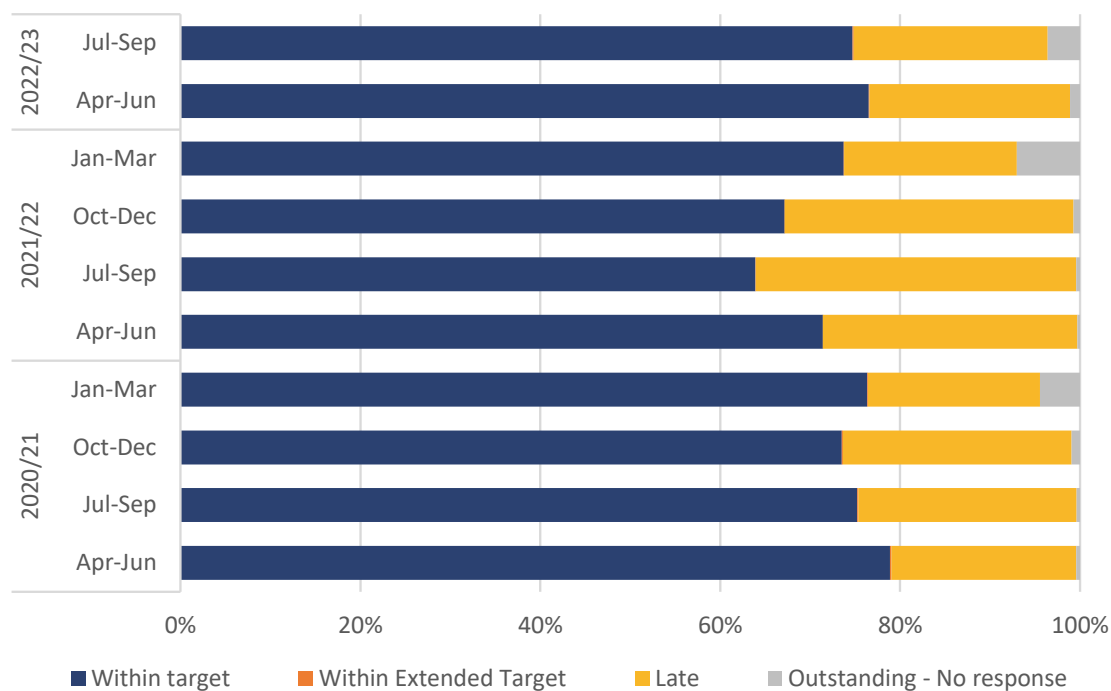
Chart 2 below shows the number of responses to statutory consultations by response status. As with previous reports, the number of outstanding statutory consultations is highest in the most recent quarter, primarily a result of lifting the information at a point in time. Quarter four in each year has a higher proportion of outstanding than any other quarter within that year due to the annual position becoming fixed shortly after the year end, with no further revisions being made. Chart 3 provides a proportionate breakdown of these responses.

Chart 2: *Number of responses to statutory consultations received by response status*



<sup>5</sup> Includes those responded to within the 21-day target and the extended target, where applicable.

Chart 3: *Responses to statutory consultations received by response status (proportions)*



During 2019/20 as a whole, 69% of statutory consultations were responded to on time<sup>6</sup>; for local planning application consultations the response rate was 71% and for majors it was just over one-half (52%). In 2020/21 response rates increased with 76% of all statutory consultations being responded to on-time; for local planning applications it was 77% and for majors it was 57%.

Response rates declined in 2021/22 with 69% of statutory consultations responded to on time, locals at 70% and majors at 56%. In the first quarter of 2022/23 response rates improved with 77% of statutory consultations being responded to on time, with locals reported at 77%, majors at 66% and regionally significant at 63%. In the second quarter of 2022/23 the response rate was 75% overall, with 76% of locals, 55% of majors and 64% of regionally significant statutory consultations being responded to on time. See Charts 4a, 4b and 4c for further information.

<sup>6</sup> Includes those responded to within the 21-day target and the extended target, where applicable.

Chart 4a: Responses to statutory consultations received for **local** planning applications by response status (proportions)

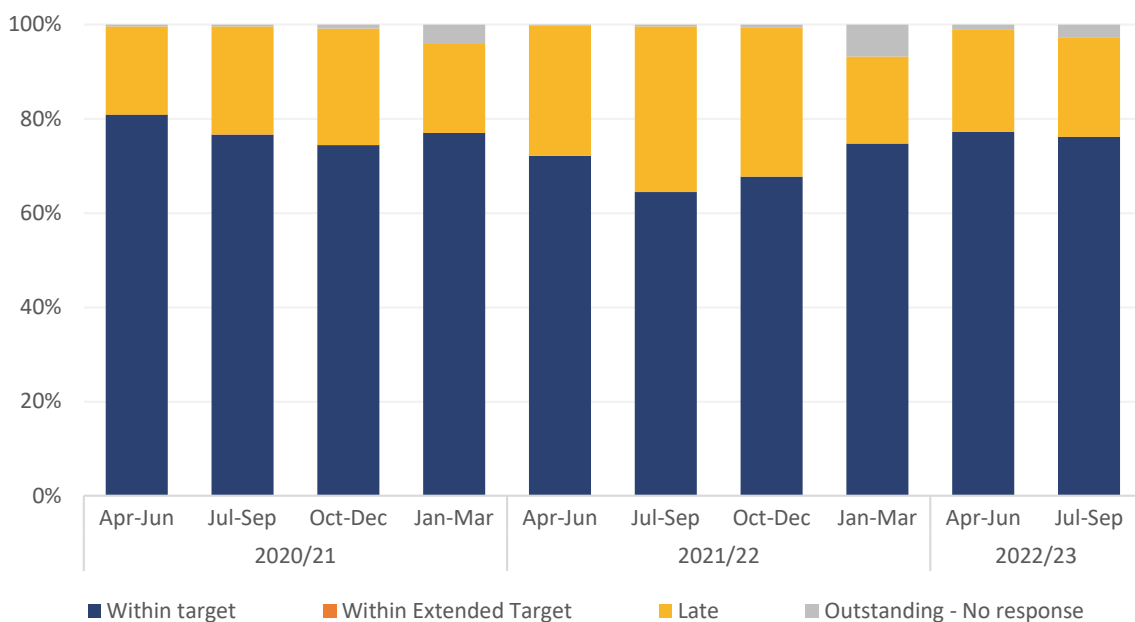


Chart 4b: Responses to statutory consultations received for **major** planning applications by response status (proportions)

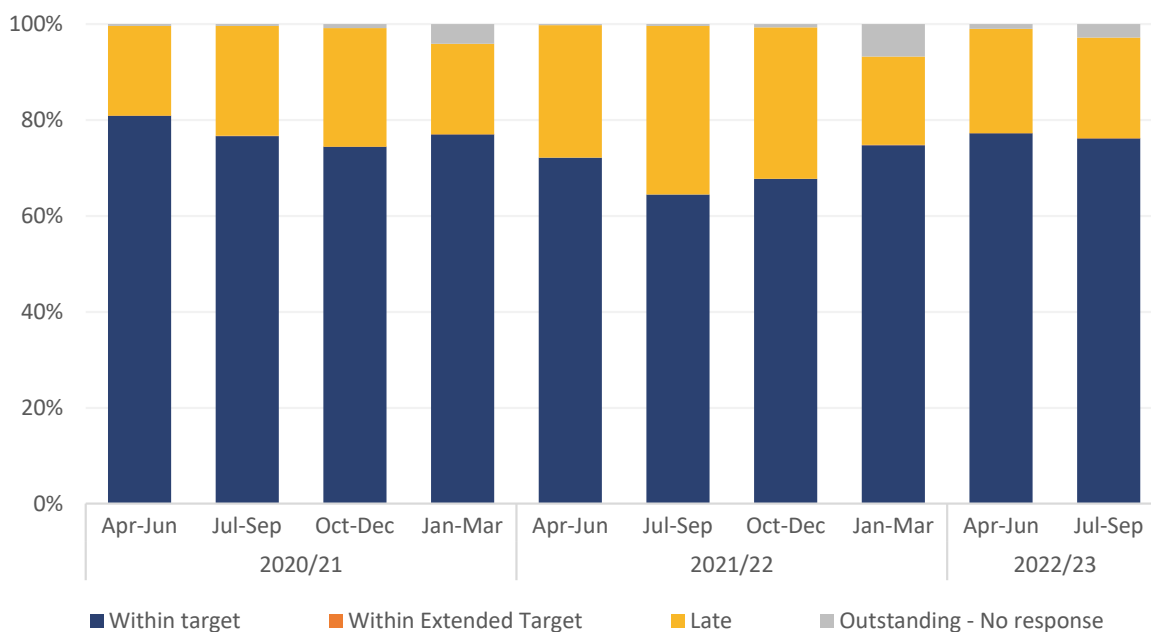
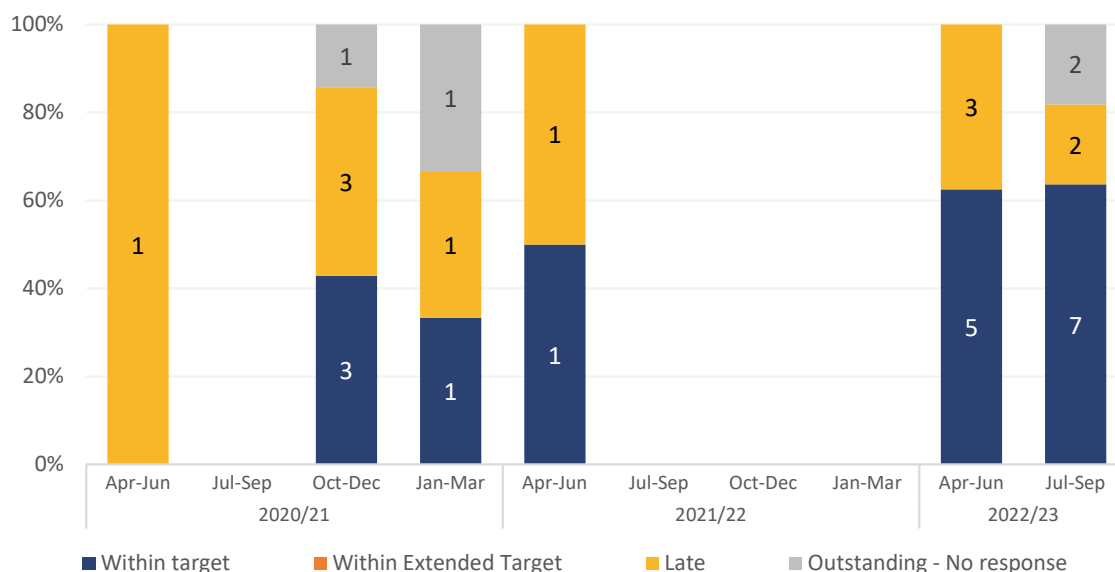


Chart 4c: *Responses to statutory consultations received for regionally significant planning applications by response status (proportions)*



Note: due to the small numbers of responses to statutory consultations on regionally significant ('regional') applications, associated proportions reported in the above chart should be treated with caution; the numbers of such responses have been included as data labels.

Tables 4(a-c) below provide a year to date breakdown for 2022/23 (April- September 2022) by statutory consultee and planning application type. For each statutory consultee the tables 4(a-c) report the number of statutory consultations received for regionally significant, major and local planning applications respectively and the percentage responded to on-time alongside response status counts.

Table 4a: *Statutory consultation on local planning applications April – September 2022-23*

| Statutory Consultee           | Within Target | Within Extended Target | Late - took over 21 days | Outstanding No response | Total         | % on-time  |
|-------------------------------|---------------|------------------------|--------------------------|-------------------------|---------------|------------|
| DfI Roads                     | 4,354         | 1                      | 865                      | 81                      | 5,301         | 82%        |
| DAERA EMF NIEA                | 1,052         | 0                      | 780                      | 34                      | 1,866         | 56%        |
| DfI Rivers                    | 631           | 1                      | 381                      | 42                      | 1,055         | 60%        |
| NI Water                      | 1,836         | 0                      | 75                       | 9                       | 1,920         | 96%        |
| DfC/HED                       | 989           | 1                      | 405                      | 53                      | 1,448         | 68%        |
| HSENI                         | 39            | 1                      | 8                        | 0                       | 48            | 83%        |
| DfE/GSNI                      | 31            | 0                      | 3                        | 1                       | 35            | 89%        |
| Belfast International Airport | 61            | 0                      | 3                        | 1                       | 65            | 94%        |
| Belfast City Airport          | 57            | 0                      | 0                        | 0                       | 57            | 100%       |
| City of Derry Airport         | 10            | 0                      | 0                        | 0                       | 10            | 100%       |
| NIHE                          | 1             | 0                      | 3                        | 0                       | 4             | 25%        |
| <b>Total</b>                  | <b>9,061</b>  | <b>4</b>               | <b>2,523</b>             | <b>221</b>              | <b>11,809</b> | <b>77%</b> |

Table 4b: *Statutory consultation on major planning applications April – September 2022-23*

| Statutory Consultee           | Within Target | Within Extended Target | Late - took over 21 days | Outstanding No response | Total      | % on-time  |
|-------------------------------|---------------|------------------------|--------------------------|-------------------------|------------|------------|
| DfI Roads                     | 137           | 4                      | 66                       | 14                      | 221        | 64%        |
| DAERA EMF NIEA                | 47            | 0                      | 65                       | 34                      | 146        | 32%        |
| DfI Rivers                    | 72            | 5                      | 59                       | 5                       | 141        | 55%        |
| NI Water                      | 81            | 0                      | 22                       | 5                       | 108        | 75%        |
| DfC/HED                       | 60            | 0                      | 9                        | 6                       | 75         | 80%        |
| HSENI                         | 9             | 0                      | 3                        | 1                       | 13         | 69%        |
| DfE/GSNI                      | 13            | 0                      | 2                        | 2                       | 17         | 76%        |
| Belfast International Airport | 3             | 0                      | 0                        | 0                       | 3          | 100%       |
| Belfast City Airport          | 6             | 0                      | 0                        | 0                       | 6          | 100%       |
| NIHE                          | 6             | 0                      | 2                        | 0                       | 8          | 75%        |
| <b>Total</b>                  | <b>434</b>    | <b>9</b>               | <b>228</b>               | <b>67</b>               | <b>738</b> | <b>60%</b> |

Table 4c: *Statutory consultation on regionally significant planning applications April – September 2022/23*

| Statutory Consultee | Within Target | Within Extended Target | Late - took over 21 days | Outstanding No response | Total     | % on-time  |
|---------------------|---------------|------------------------|--------------------------|-------------------------|-----------|------------|
| DfI Roads           | 4             | 0                      | 0                        | 0                       | 4         | 100%       |
| DAERA EMF NIEA      | 2             | 0                      | 1                        | 1                       | 4         | 50%        |
| DfI Rivers          | 1             | 0                      | 2                        | 0                       | 3         | 33%        |
| NI Water            | 1             | 0                      | 0                        | 0                       | 1         | 100%       |
| DfC/HED             | 2             | 0                      | 0                        | 1                       | 3         | 67%        |
| HSENI               | 0             | 0                      | 2                        | 0                       | 2         | 0%         |
| DfE/GSNI            | 2             | 0                      | 0                        | 0                       | 2         | 100%       |
| <b>Total</b>        | <b>12</b>     | <b>0</b>               | <b>5</b>                 | <b>2</b>                | <b>19</b> | <b>63%</b> |

In addition to this, statutory consultees also received a volume of consultations which were not statutory. During the first six months of 2022 they received consultations on pre application discussions (666), discharge of conditions (517), listed building consents (382) and advertising (178) alongside consultation on various other types of planning applications. DfC / HED received 41% of these consultations, DAERA EMF NIEA 20%, DfI Roads 20%, DfI Rivers 9% and NI Water 8%.

Tables 4(d-f) below provides a year to date breakdown for 2022/23 (April to September) on consultations issued (by application type) from each planning authority to the statutory consultees and reports both the consultation percentage returned on-time back to the planning authority and response status counts.

Table 4d: *Planning Authority statutory consultations issued on regionally significant planning applications April – September 2022/23*

| Planning Authority                     | Within Target | Within Extended Target | Late - took over 21 days | Outstanding No response | Total     | % on-time  |
|--|---------------|------------------------|--------------------------|-------------------------|-----------|------------|
| LA03 - Antrim and Newtownabbey         | 5             | 0                      | 4                        | 0                       | 9         | 56%        |
| LA12 - DFI Strategic Planning Division | 7             | 0                      | 1                        | 2                       | 10        | 70%        |
| <b>Total</b>                           | <b>12</b>     | <b>0</b>               | <b>5</b>                 | <b>2</b>                | <b>19</b> | <b>63%</b> |

Table 4e: *Planning Authority statutory consultations issued on major planning applications April – September 2022/23*

| Planning Authority                     | Within Target | Within Extended Target | Late - took over 21 days | Outstanding No response | Total      | % on-time  |
|--|---------------|------------------------|--------------------------|-------------------------|------------|------------|
| LA01 - Causeway Coast and Glens        | 52            | 0                      | 20                       | 7                       | 79         | 66%        |
| LA02 - Mid and East Antrim             | 31            | 2                      | 10                       | 3                       | 46         | 72%        |
| LA03 - Antrim and Newtownabbey         | 54            | 1                      | 18                       | 4                       | 77         | 71%        |
| LA04 - Belfast                         | 103           | 1                      | 39                       | 4                       | 147        | 71%        |
| LA05 - Lisburn and Castlereagh         | 27            | 0                      | 19                       | 10                      | 56         | 48%        |
| LA06 - Ards and North Down             | 24            | 0                      | 20                       | 7                       | 51         | 47%        |
| LA07 - Newry, Mourne and Down          | 24            | 2                      | 17                       | 4                       | 47         | 55%        |
| LA08 - Armagh, Banbridge and Craigavon | 42            | 0                      | 18                       | 4                       | 64         | 66%        |
| LA09 - Mid Ulster                      | 19            | 0                      | 29                       | 14                      | 62         | 31%        |
| LA10 - Fermanagh and Omagh             | 17            | 0                      | 10                       | 3                       | 30         | 57%        |
| LA11 - Derry and Strabane              | 40            | 3                      | 21                       | 7                       | 71         | 61%        |
| LA12 - DFI Strategic Planning Division | 1             | 0                      | 7                        | 0                       | 8          | 13%        |
| <b>Total</b>                           | <b>434</b>    | <b>9</b>               | <b>228</b>               | <b>67</b>               | <b>738</b> | <b>60%</b> |

Table 4f: *Planning Authority statutory consultations issued on local planning applications April – September 2022/23*

| Planning Authority                     | Within Target | Within Extended Target | Late - took over 21 days | Outstanding No response | Total         | % on-time  |
|--|---------------|------------------------|--------------------------|-------------------------|---------------|------------|
| LA01 - Causeway Coast and Glens        | 1,579         | 0                      | 251                      | 9                       | 1,839         | 86%        |
| LA02 - Mid and East Antrim             | 536           | 0                      | 86                       | 6                       | 628           | 85%        |
| LA03 - Antrim and Newtownabbey         | 741           | 1                      | 142                      | 8                       | 892           | 83%        |
| LA04 - Belfast                         | 511           | 0                      | 121                      | 8                       | 640           | 80%        |
| LA05 - Lisburn and Castlereagh         | 789           | 0                      | 345                      | 28                      | 1,162         | 68%        |
| LA06 - Ards and North Down             | 571           | 0                      | 204                      | 9                       | 784           | 73%        |
| LA07 - Newry, Mourne and Down          | 1,413         | 2                      | 300                      | 40                      | 1,755         | 81%        |
| LA08 - Armagh, Banbridge and Craigavon | 1,385         | 0                      | 340                      | 22                      | 1,747         | 79%        |
| LA09 - Mid Ulster                      | 385           | 0                      | 267                      | 64                      | 716           | 54%        |
| LA10 - Fermanagh and Omagh             | 551           | 0                      | 225                      | 14                      | 790           | 70%        |
| LA11 - Derry and Strabane              | 600           | 1                      | 240                      | 13                      | 854           | 70%        |
| LA12 - DFI Strategic Planning Division | 0             | 0                      | 2                        | 0                       | 2             | 0%         |
| <b>Total</b>                           | <b>9,061</b>  | <b>4</b>               | <b>2,523</b>             | <b>221</b>              | <b>11,809</b> | <b>77%</b> |

### 2022/23 in more detail – statutory consultee analysis

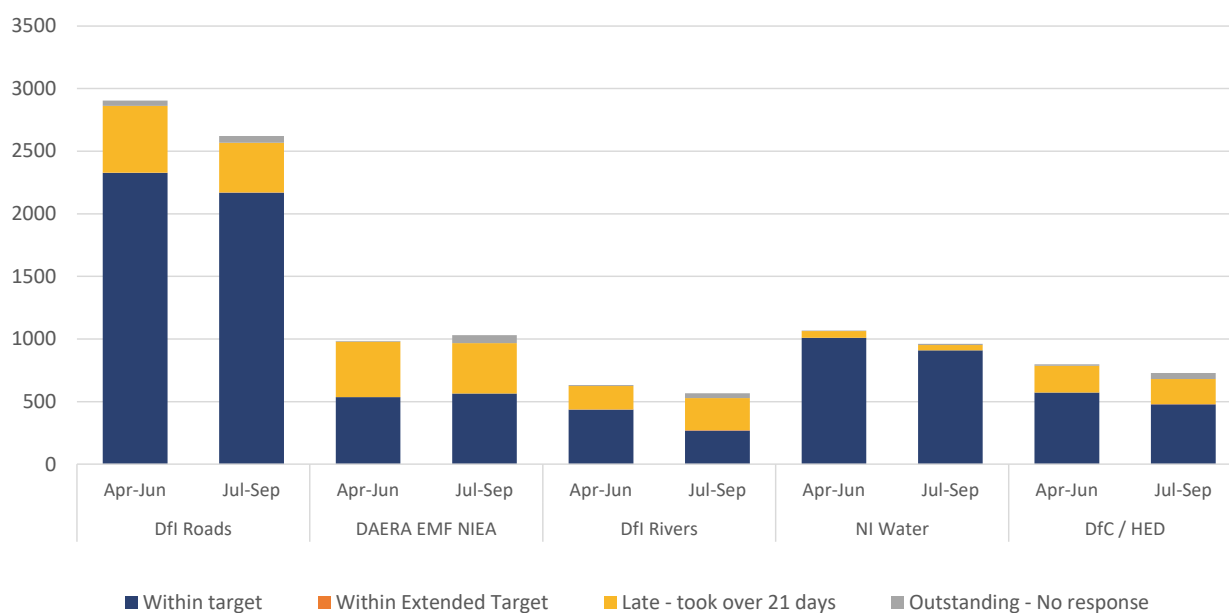
Statutory consultations received by statutory consultees for the first two quarters of 2022/23 are presented in Table 5 below<sup>7</sup>. There were 6,502 statutory consultations received in the first quarter of 2022/23 and 6,064 in the second quarter of the year. See Table 1.

Table 5: *Number of statutory consultations received by planning application type, 2022/23 Q1 & Q2*

| Quarter        | Local         | Major      | Regional  | Total         |
|----------------|---------------|------------|-----------|---------------|
| Apr-Jun        | 6,131         | 363        | 8         | 6,502         |
| Jul-Sep        | 5,678         | 375        | 11        | 6,064         |
| <b>2022/23</b> | <b>11,809</b> | <b>738</b> | <b>19</b> | <b>12,566</b> |

Of the 12,566 statutory consultations received in the first six months of 2022, DfI Roads received 44%, DAERA EMF NIEA 16%, NI Water 16%, DfC / HED 12% and DfI Rivers 10%; together these five consultees accounted for 98% of the statutory consultations raised during the first six months of the year (Chart 6).<sup>8</sup> This is similar to the position recorded in previous quarters.

Chart 6: *Number of responses to statutory consultations received by statutory consultee and response status, 2022/23 Q1 – Q2 (5 most common consultees)*



During Q2 2022/23 across all statutory consultees the proportion of responses received on time<sup>9</sup> ranged from 48% – 100%. In all, 75% of statutory consultation were responded on time during this quarter; below the 77% reported for Q1.

Table 6 provides response information for the first two quarters of 2022/23 with a year to date figure for the first six months of 2022/33 for each statutory consultee.

<sup>7</sup> Note: the number of statutory consultations raised by planning authorities in a given period will equal the number of statutory consultations received by statutory consultees in the same period. In effect, these terms are interchangeable.

<sup>8</sup> See [User Guidance](#) for a full list of key statutory consultees.

<sup>9</sup> Includes those responded to within the 21-day target and the extended target, where applicable.



Table 6: *Number of responses to statutory consultations received by statutory consultees, 2022-23 Q1-Q2*

| Statutory Consultee           | Quarter 2022/23    | On time <sup>7</sup> | Total         | % on-time  |
|-------------------------------|--------------------|----------------------|---------------|------------|
| DfI Roads                     | Apr-Jun            | 2,329                | 2,904         | 80%        |
|                               | Jul-Sep            | 2,171                | 2,622         | 83%        |
|                               | 2022/23 ytd        | 4,500                | 5,526         | 81%        |
| DAERA EMF NIEA                | Apr-Jun            | 536                  | 985           | 54%        |
|                               | Jul-Sep            | 565                  | 1,031         | 55%        |
|                               | 2022/23 ytd        | 1,101                | 2,016         | 55%        |
| DfI Rivers                    | Apr-Jun            | 438                  | 632           | 69%        |
|                               | Jul-Sep            | 272                  | 567           | 48%        |
|                               | 2022/23 ytd        | 710                  | 1,199         | 59%        |
| NI Water                      | Apr-Jun            | 1,009                | 1,068         | 94%        |
|                               | Jul-Sep            | 909                  | 961           | 95%        |
|                               | 2022/23 ytd        | 1,918                | 2,029         | 95%        |
| DfC / HED                     | Apr-Jun            | 573                  | 798           | 72%        |
|                               | Jul-Sep            | 479                  | 728           | 66%        |
|                               | 2022/23 ytd        | 1,052                | 1,526         | 69%        |
| HSENI                         | Apr-Jun            | 29                   | 39            | 74%        |
|                               | Jul-Sep            | 20                   | 24            | 83%        |
|                               | 2022/23 ytd        | 49                   | 63            | 78%        |
| DfE / GSNI                    | Apr-Jun            | 17                   | 19            | 89%        |
|                               | Jul-Sep            | 29                   | 35            | 83%        |
|                               | 2022/23 ytd        | 46                   | 54            | 85%        |
| Belfast International Airport | Apr-Jun            | 24                   | 28            | 86%        |
|                               | Jul-Sep            | 40                   | 40            | 100%       |
|                               | 2022/23 ytd        | 64                   | 68            | 94%        |
| Belfast City Airport          | Apr-Jun            | 18                   | 18            | 100%       |
|                               | Jul-Sep            | 45                   | 45            | 100%       |
|                               | 2022/23 ytd        | 63                   | 63            | 100%       |
| City of Derry Airport         | Apr-Jun            | 4                    | 4             | 100%       |
|                               | Jul-Sep            | 6                    | 6             | -          |
|                               | 2022/23 ytd        | 10                   | 10            | 100%       |
| NIHE                          | Apr-Jun            | 4                    | 7             | 57%        |
|                               | Jul-Sep            | 3                    | 5             | 60%        |
|                               | 2022/23 ytd        | 7                    | 12            | 58%        |
| <b>Overall Totals</b>         | Apr-Jun            | 4,981                | 6,502         | 77%        |
|                               | Jul-Sep            | 4,539                | 6,064         | 75%        |
|                               | <b>2022/23 ytd</b> | <b>9,520</b>         | <b>12,566</b> | <b>76%</b> |

Table 7 has been included to enable comparisons to be made at individual consultee level with the previous year.

Table 7: *Number of responses to statutory consultations received by statutory consultee, 2021-22*

| Statutory Consultee           | Year    | On-time <sup>10</sup> | Total  | % on-time |
|-------------------------------|---------|-----------------------|--------|-----------|
| DfI Roads                     | Apr-Jun | 2,282                 | 3,265  | 70%       |
|                               | Jul-Sep | 1,931                 | 3,086  | 63%       |
|                               | Oct-Dec | 1,846                 | 2,803  | 66%       |
|                               | Jan-Mar | 2,085                 | 2,708  | 77%       |
|                               | 2021/22 | 8,144                 | 11,862 | 69%       |
| DAERA EMF NIEA                | Apr-Jun | 910                   | 1,203  | 76%       |
|                               | Jul-Sep | 743                   | 1,115  | 67%       |
|                               | Oct-Dec | 631                   | 1,065  | 59%       |
|                               | Jan-Mar | 526                   | 1,057  | 50%       |
|                               | 2021/22 | 2,810                 | 4,440  | 63%       |
| NI Water                      | Apr-Jun | 1,045                 | 1,065  | 98%       |
|                               | Jul-Sep | 1,099                 | 1,134  | 97%       |
|                               | Oct-Dec | 939                   | 965    | 97%       |
|                               | Jan-Mar | 857                   | 898    | 95%       |
|                               | 2021/22 | 3,940                 | 4,062  | 97%       |
| DfC /HED                      | Apr-Jun | 708                   | 979    | 72%       |
|                               | Jul-Sep | 480                   | 959    | 50%       |
|                               | Oct-Dec | 536                   | 794    | 68%       |
|                               | Jan-Mar | 550                   | 768    | 72%       |
|                               | 2021/22 | 2,274                 | 3,500  | 65%       |
| DfI Rivers                    | Apr-Jun | 224                   | 775    | 29%       |
|                               | Jul-Sep | 217                   | 753    | 29%       |
|                               | Oct-Dec | 237                   | 650    | 36%       |
|                               | Jan-Mar | 459                   | 660    | 70%       |
|                               | 2021/22 | 1,137                 | 2,838  | 40%       |
| HSENI                         | Apr-Jun | 40                    | 46     | 87%       |
|                               | Jul-Sep | 24                    | 29     | 83%       |
|                               | Oct-Dec | 24                    | 27     | 89%       |
|                               | Jan-Mar | 20                    | 23     | 87%       |
|                               | 2021/22 | 108                   | 125    | 86%       |
| DfE / GSNI                    | Apr-Jun | 27                    | 29     | 93%       |
|                               | Jul-Sep | 27                    | 27     | 100%      |
|                               | Oct-Dec | 17                    | 19     | 89%       |
|                               | Jan-Mar | 14                    | 15     | 93%       |
|                               | 2021/22 | 85                    | 90     | 94%       |
| NIHE                          | Apr-Jun | 6                     | 6      | 100%      |
|                               | Jul-Sep | 5                     | 9      | 56%       |
|                               | Oct-Dec | 14                    | 16     | 88%       |
|                               | Jan-Mar | 8                     | 11     | 73%       |
|                               | 2021/22 | 33                    | 42     | 79%       |
| Belfast International Airport | Apr-Jun | 48                    | 48     | 100%      |
|                               | Jul-Sep | 40                    | 42     | 95%       |
|                               | Oct-Dec | 28                    | 28     | 100%      |
|                               | Jan-Mar | 22                    | 22     | 100%      |
|                               | 2021/22 | 138                   | 140    | 99%       |
| Belfast City Airport          | Apr-Jun | 22                    | 22     | 100%      |
|                               | Jul-Sep | 29                    | 29     | 100%      |
|                               | Oct-Dec | 14                    | 14     | 100%      |
|                               | Jan-Mar | 17                    | 17     | 100%      |
|                               | 2021/22 | 82                    | 82     | 100%      |
| City of Derry Airport         | Apr-Jun | 2                     | 2      | 100%      |
|                               | Jul-Sep | 0                     | 0      | -         |
|                               | Oct-Dec | 2                     | 2      | 100%      |
|                               | Jan-Mar | 6                     | 6      | 100%      |
|                               | 2021/22 | 10                    | 10     | 100%      |
| <b>Overall Totals</b>         | Apr-Jun | 5,314                 | 7,440  | 71%       |
|                               | Jul-Sep | 4,595                 | 7,183  | 64%       |
|                               | Oct-Dec | 4,288                 | 6,383  | 67%       |
|                               | Jan-Mar | 4,564                 | 6,185  | 74%       |
|                               | 2021/22 | 18,761                | 27,191 | 69%       |

<sup>10</sup> Includes those responded to within the 21-day target and the extended target, where applicable.

## User guidance

### Notes on data source

An extract of all consultations/advice queries raised from 1 April 2022 to 30 September 2022 were transferred on 1 November 2022 from the Northern Ireland Planning Portal and the 29 November from the Mid Ulster Planning Portal. The data were then validated. The relevant data is lifted at least one month after the end of the reference period to allow for the 21 day target response date, which applies to most statutory consultations, to have elapsed.

### Note on publication

There was no report issued for the first quarter of 2022/23. This report provides data for both the first and second quarters of the year to date. Work on the third quarter report has commenced and this will be made available in the coming months.

### List of key statutory consultees

- Belfast City Airport
- Belfast International Airport
- City of Derry Airport
- Department of Agriculture, Environment and Rural Affairs (DAERA) Environment, Marine and Fisheries (EMF) and Northern Ireland Environment Agency (NIEA)
- Department for Communities (DfC) / Historic Environment Division (HED)
- Department for the Economy (DfE) / Geological Survey of Northern Ireland (GSNI)
- DfI Rivers
- DfI Roads
- Health and Safety Executive Northern Ireland (HSENI)
- Northern Ireland Housing Executive (NIHE)
- Northern Ireland Water

### Future developments

As work progresses in this area it is intended to widen the list of key statutory consultees to include local planning authorities. Work is ongoing to quality review and ensure that all statutory planning consultations issued are fully captured. Future quarterly reports will include an update of any quality improvements introduced. As a result figures may be revised, however, the scale of any such change is envisaged to be small.



## Planning Committee

06 March 2023

### Report from:

Head of Planning and Capital Development

### Item for Noting

**TITLE:** Item 6 - Notification by telecommunication operator(s) of intention to utilise permitted development rights

### Background and Key Issues:

#### Background

1. The Council is notified by two operators [Openreach and Blue Clarity] of their intention to utilise permitted development rights to install communications apparatus at various locations within the Council area (**see Appendix**).
2. The works consist of the erection of poles and upgrade to an existing telecommunication apparatus in accordance with Part 18 (Development by Electronic Communications Code Operators) F31 of the Planning (General Permitted Development) Order (Northern Ireland) 2015.

#### Key Issues

1. The notification advises the Council of the location of the apparatus where they intend to utilise permitted development rights. Detail is also provided in relation to the nature and scale of the works proposed. The content of this recent notification is provided and attached to this report.
2. No comment is provided on the requirement for planning permission for the equipment listed. This letter is also referred to the enforcement section of the Council. They will write

separately to the operator should it be considered that the requirements of the Regulations cannot be met at any of the locations specified by either operator.

**Recommendation:**

It is recommended that Members note the detail of the notifications specific to the sites identified.

**Finance and Resource Implications:**

There are no finance or resource implications.

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy? No

**If no, please provide explanation/rationale**

This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. EQIA not required.

If yes, what was the outcome:

|  |     |   |     |  |     |
|--|-----|---|-----|--|-----|
| <b>Option 1</b><br>Screen out without mitigation | N/A | <b>Option 2</b><br>Screen out with mitigation | N/A | <b>Option 3</b><br>Screen in for a full EQIA | N/A |
|--|-----|---|-----|--|-----|

**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

N/A

**Insert link to completed Equality and Good Relations report:**

### 2. Rural Needs Impact Assessment:

|  |    |   |    |  |
|--|----|---|----|--|
| Has consideration been given to Rural Needs? | No | Has a Rural Needs Impact Assessment (RNIA) template been completed? | No |  |
|--|----|---|----|--|

**If no, please given explanation/rationale for why it was not considered necessary:**

This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. RNIA not required.

If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**APPENDIX 6** – Notifications from an Operator in respect of intention to utilise permitted development rights

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

If Yes, please insert date:

**List of Notifications from Telecommunication Operators in relation to intentions to utilise Permitted Development Rights  
March 2023 Planning Committee**

|   | <b>Applicant/Agents</b> | <b>Operator</b> | <b>Location</b>   | <b>Summary of details</b>                  | <b>Date received</b> |
|---|-------------------------|-----------------|---|--|----------------------|
| 1 | Openreach               | Openreach       | 72 Comber Road, Dundonald   | <b>Notice of Pole Erection</b>             | 07/02/2023           |
| 2 | Samuele Graziano        | Blue Clarity    | (BALLYBEAN EAST), SITE AT CRAIGLEITH DRIVE, DUNDONALD ROAD, BELFAST, BT16 2RY | <b>Existing Telecommunications Upgrade</b> | 09/02/2023           |
| 3 | Openreach               | Openreach       | 2 Gortraney Road, Ballinderry Upper   | <b>Notice of Pole Erection</b>             | 09/02/2023           |
| 4 | Openreach               | Openreach       | 8 Crumlin Road, Ballinderry Upper   | <b>Notice of Pole Erection</b>             | 20/02/2023           |



## Planning Committee

06 March 2023

### Report from:

Head of Planning and Capital Development

### Item for Noting

**TITLE:** Item 7 - Statutory Performance Indicators – January 2023

### Background and Key Issues:

#### Background

1. The Planning Act (Northern Ireland) 2011 sets out the legislative framework for development management in NI and provides that, from 1 April 2015, Councils now largely have responsibility for this planning functions.
2. The Department continues to have responsibility for the provision and publication of official statistics relating to the overall development management function, including enforcement. The quarterly and annual reports provide the Northern Ireland headline results split by District Council. This data provides Councils with information on their own performance in order to meet their own reporting obligations under the Local Government Act (Northern Ireland) 2014.

#### Key Issues

1. The Department for Infrastructure has provided the Council with monthly monitoring information against the three statutory indicators. A sheet is attached (**see Appendix**) summarising the monthly position for each indicator for the month of January 2023. This is the first set of monthly data produced since transfer to the new planning portal system.



2. This data is invalidated management information. The data has been provided for internal monitoring purposes only. They are not official statistics and should not be publically quoted as such.
3. Members will note that the performance against the statutory target for local applications for January 2023 was 27.4 weeks with performance year to date noted to be 30.8 weeks. The ability to perform against the local target was impacted by the introduction of the new planning portal and the issues in terms of the early problems with the roll out of the software is well documented.
4. Performance in relation to major applications for January 2023 was 24.2 weeks with performance year to date noted to be 91.2 weeks. As explained previously, there has been no opportunity to perform against the statutory target for major applications as a number of proposals brought forward in previous months are subject to Section 76 planning agreements.

#### Recommendation:

It is recommended that the Committee notes the information.

#### Finance and Resource Implications:

There are no finance or resource implications.

## Screening and Impact Assessment

### 1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy?

No

#### If no, please provide explanation/rationale

This is a report outlining progress against statutory targets and EQIA is not required.

If yes, what was the outcome:

#### Option 1

Screen out without mitigation

N/A

#### Option 2

Screen out with mitigation

N/A

#### Option 3

Screen in for a full EQIA

N/A

**Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)**

Insert link to completed Equality and Good Relations report:

## 2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?

No

Has a Rural Needs Impact Assessment (RNIA) template been completed?

No

If no, please give explanation/rationale for why it was not considered necessary:

This is a report outlining progress against statutory targets and RNIA is not required.

If yes, give brief summary of the key rural issues identified, any proposed actions to address or mitigate and include the link to the completed RNIA template:

**SUBJECT TO PLANNING APPROVAL:**

No

If Yes, "This is a decision of this Committee only. Members of the Planning Committee are not bound by the decision of this Committee. Members of the Planning Committee shall consider any related planning application in accordance with the applicable legislation and with an open mind, taking into account all relevant matters and leaving out irrelevant consideration".

**APPENDICES:**

**APPENDIX 7 – Statutory Performance Indicators – January 2023.**

**HAS IT BEEN SUBJECT TO CALL IN TO DATE?**

No

If Yes, please insert date:

Statutory targets monthly update - January 2023(unvalidated management information)

Lisburn and Castlereagh

| Major applications (target of 30 weeks) |                 |                                       |                                      |                                      | Local applications (target of 15 weeks) |                                       |                                      |                                      | Cases concluded (target of 39 weeks) |   |                                    |                                      |
|---|-----------------|---------------------------------------|--------------------------------------|--------------------------------------|---|---------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|---|------------------------------------|--------------------------------------|
|   | Number received | Number decided/withdrawn <sup>1</sup> | Average processing time <sup>2</sup> | % of cases processed within 30 weeks | Number received                         | Number decided/withdrawn <sup>1</sup> | Average processing time <sup>2</sup> | % of cases processed within 15 weeks | Number opened                        | Number brought to conclusion <sup>3</sup> | "70%" conclusion time <sup>3</sup> | % of cases concluded within 39 weeks |
| April                                   | 0               | 1                                     | 83.6                                 | 0.0%                                 | 73                                      | 79                                    | 16.4                                 | 48.1%                                | 23                                   | 22  | 13.6                               | 100.0%                               |
| May                                     | 0               | -                                     | 0.0                                  | 0.0%                                 | 73                                      | 70                                    | 23.8                                 | 35.7%                                | 26                                   | 23  | 25.6                               | 73.9%                                |
| June                                    | 1               | -                                     | 0.0                                  | 0.0%                                 | 75                                      | 74                                    | 29.6                                 | 36.5%                                | 15                                   | 26  | 41.0                               | 69.2%                                |
| July                                    | 0               | -                                     | 0.0                                  | 0.0%                                 | 50                                      | 63                                    | 33.4                                 | 25.4%                                | 27                                   | 19  | 15.4                               | 94.7%                                |
| August                                  | 3               | -                                     | 0.0                                  | 0.0%                                 | 68                                      | 67                                    | 39.8                                 | 11.9%                                | 31                                   | 12  | 8.0                                | 83.3%                                |
| September                               | 0               | -                                     | 0.0                                  | 0.0%                                 | 72                                      | 70                                    | 35.6                                 | 24.3%                                | 24                                   | 23  | 24.4                               | 95.7%                                |
| October                                 | 2               | 4                                     | 177.4                                | 0.0%                                 | 80                                      | 84                                    | 23.6                                 | 26.2%                                | 22                                   | 18  | 25.4                               | 83.3%                                |
| November                                | 0               | 1                                     | 33.0                                 | 0.0%                                 | 65                                      | 63                                    | 38.6                                 | 23.8%                                | 17                                   | 18  | -                                  | -                                    |
| December                                | 2               | -                                     | 0.0                                  | 0.0%                                 | 55                                      | 9                                     | 54.8                                 | 22.2%                                | 17                                   | -   | -                                  | -                                    |
| January                                 | 0               | 1                                     | 24.2                                 | 100.0%                               | 78                                      | 62                                    | 27.4                                 | 27.4%                                | 24                                   | -   | -                                  | -                                    |
| February                                | 0               | -                                     | 0.0                                  | 0.0%                                 | 0                                       | -                                     | 0.0                                  | 0.0%                                 | 0                                    | -   | -                                  | -                                    |
| March                                   | 0               | -                                     | 0.0                                  | 0.0%                                 | 0                                       | -                                     | 0.0                                  | 0.0%                                 | 0                                    | -   | -                                  | -                                    |
| <b>Year to date</b>                     | <b>8</b>        | <b>7</b>                              | <b>91.2</b>                          | <b>14.3%</b>                         | <b>689</b>                              | <b>641</b>                            | <b>30.8</b>                          | <b>29.2%</b>                         | <b>226</b>                           | <b>161</b>                                |                                    |                                      |

Source: NI Planning Portal

Notes:

1. DCs, CLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures

2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn. The median is used for the average processing time as any extreme values have the potential to inflate the mean, leading to a result that may not be considered as "typical".

3. The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence; a planning application is received; or a case is closed. The value at 70% is determined by sorting data from its lowest to highest values and then taking the data point at the 70th percentile of the sequence.

Enforcement conclusion only available to transfer  
This info is currently not in new portal