



June 14th, 2023

Chairman : Alderman M Gregg

Vice Chairman : Councillor U Mackin

Aldermen : O Gawith and J Tinsley

Councillors : D Bassett, S Burns, P Catney, D J Craig, A Martin, G Thompson and N Trimble

**Notice of Meeting**

A meeting of the Planning Committee will be held on **Monday, 19th June 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 Special Planning Committee Meeting held on 27 April, 2023

📄 *PC 27.04.2023 - Draft minute 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 - FINAL.pdf*

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- (i) LA05/2022/0830F - Demolition of existing buildings/structures and erection of mixed use development comprising mixed tenure residential development comprised of 36 dwelling houses, 55 apartments and 2 maisonettes; 6 Class B2 industrial/employment units (total 1,098 sq. metres) with service yard; 3 flexible work spaces/ Wi-Fi hubs (total 300 sq. metres); 2 take away coffee pod units; private, communal and public space, landscaping, cycle and car parking, associated site works and infrastructure and access ar

📄 *Appendix 1a - DM Officer Report - LA0520220830F - FINAL.pdf*

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- (ii) LA05/2022/0272/F - Proposed two detached dwellings with provision for future garages at gap between 42 Halfpenny Gate Road, Moira and Broomhedge Gospel Hall, 40a Halfpenny Gate Road, Moira

📄 *Appendix 1b - DM Officer Report - LA05.2022.0272.F - Halfpenny Gospel Ha...pdf*

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- (iii) LA05/2021/1112/O - Proposed new dwelling in a small gap within a continuously built frontage and which also forms part of an established cluster at lands to the west of 6 Chapel Road, Glenavy

📄 *Appendix 1c - DM Officer Report - LA0520211112O - West 6 Chapel Road - F...pdf*

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- (iv) LA05/2022/0747/RM - Proposed infill of two dwellings and garages between 15 and 21 Church Road, Lisburn

📄 *Appendix 1d - DM Officer Report - LA0520220747RM - FINAL.pdf*

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<b>4.2</b>	<b>Statutory Performance Indicators - March 2023 and Year End</b>	
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	<i>Appendix 2 - Lisburn_Castlereagh_Mar_Monthly_MI.PDF</i>	<i>Page 130</i>
<b>4.3</b>	<b>Appeal Decision - LA05/2017/0772/F</b>	
	<i>Item 3 - Appeal Decision - LA052017 0772F - Drafted.pdf</i>	<i>Page 131</i>
	<i>Appendix 3 - Appeal Decision - LA05 2017 0772F.PDF</i>	<i>Page 134</i>
<b>4.4</b>	<b>Appeal Decision LA05/2020/0613/F</b>	
	<i>Item 4 - Appeal Decision - LA0520200613F - Drafted.pdf</i>	<i>Page 139</i>
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<b>4.5</b>	<b>Notification by Telecommunication Operator(s) of intention to utilise Permitted Development Rights</b>	
	<i>Item 5 - Notification by telecommunication operators of intention to uti...pdf</i>	<i>Page 146</i>
	<i>Appendix 5 List of Notifications from Telecommunication Operators in rel....pdf</i>	<i>Page 149</i>
<b>4.6</b>	<b>Update on Local Development Plan</b>	
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	<i>Appendix 6 DFIPG 11623 _LCCC_C Hughes - 04.05.23.pdf</i>	<i>Page 154</i>
<b>4.7</b>	<b>Enforcement Update</b>	
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## **5.0 Any Other Business**

(S) PC 27.04.2023

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**LISBURN & CASTLEREAGH CITY COUNCIL****Minutes of Special Meeting of the Planning Committee held in the Council Chamber and in Remote Locations on Thursday 27<sup>th</sup> April 2023 at 9.35 am.****PRESENT IN CHAMBER:**

Alderman J Tinsley (Chairman)

Aldermen W J Dillon MBE, O Gawith and A Grehan

Councillors U Mackin and A Swan

**PRESENT REMOTELY:**

Councillor John Palmer (Vice-Chairman)

**IN ATTENDANCE:**

Director of Service Transformation  
 Head of Planning & Capital Development  
 Principal Planning Officer (RH)  
 Senior Planning Officer (RT)  
 Member Services Officers (RN & EW)

Mr B Martyn (Cleaver Fulton Rankin) – Legal Advisor  
 (Attending Remotely)

Mr S Cash - DFI Roads Service

**Commencement of Meeting**

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

1. **Apologies** (00:01:47)

It was agreed to accept apologies for non-attendance at the meeting on behalf of Alderman D Drysdale; Councillors D J Craig and M Gregg.

2. **Declarations of Interest** (00:02:22)

There were no declarations of interest.

3. **Minutes of Meeting of Planning Committee held on 3 April 2023** (00:02:38)

It was agreed that the minutes of the meeting of Committee held on the 3<sup>rd</sup> April 2023 be confirmed and signed.

(S) PC 27.04.2023

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#### 4. Report from the Head of Planning & Capital Development (00:02:57)

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.

##### 4.1 Schedule of Applications (00:04:15)

The Chairman, Alderman J Tinsley, advised that there was one major application on the schedule for consideration at the meeting.

##### 4.1.1 Application to be Determined (00:04:53)

- (i) LA05/2022/0727/F – A new two chapel crematorium (two 200 seat ceremony rooms) and associated works to provide landscaping, car parking and access. The proposed new vehicle access off the Ballygowan Road will serve the proposed crematorium and associated infrastructure. The existing access on the Ballygowan Road will be retained and will serve existing uses and plots. At Roselawn Cemetery, 127 Ballygowan Road, Belfast. (00:04:53)

The Senior Planning Officer (RT) presented the above application as outlined within the circulated report and advised that a very few minor elevation changes to the design of the building would be made.

The Committee received on a remote basis, Mr Andrew Gibson from AECOM who spoke in support of the application. Mr Seamus McBride, Ms Sabine Kalke and Mr Nick Brennan from Belfast City Council; and Ms Paula Lavery, Ms Rachel Devine and Mr Simon Tomlinson from AECOM were also available with Mr Gibson to respond to questions as necessary. A number of Members' queries were addressed.

A number of Members' queries were responded to by Planning Officers and the Roads Service official.

The Director of Service Transformation left the Chamber during the question and answer session with the Planning Officers and the Road Service official.  
(10.25 am)

#### Vote

Having considered the information provided within the report of the Planning Officer, the Committee agreed unanimously to adopt the recommendation to approve planning application LA05/2022/0727/F, subject to the applicant confirming that the traffic management model that had been used to assess the speed of traffic on the Ballygowan Road adjacent to the site location was that as prescribed by the DFI Road Service.

(S) PC 27.04.2023

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The Chairman, Alderman J Tinsley, expressed his thanks to the officers for the considerable amount of work involved with the processing of this major application and also the other major applications which the Committee had considered during its mandate.

5. Any Other Business (01:14:24)

5.1 Thanks to Committee (01:14:55)

The Head of Planning & Capital Development expressed his thanks to the members of the Planning Committee and to all staff associated with the Committee for their diligence and contribution to the operation of the Committee during the current mandate.

5.2 Thanks to Committee and Officers (01:15:39)

Alderman W J Dillon expressed his thanks to the officers and staff associated with the Planning Committee who had afforded him courtesy and advice over the time when he had served on the Planning Committee. Alderman Dillon paid particular thanks to the Head of Planning & Capital Development, Mr Conor Hughes, with whom he had worked over many years both within the Council and also within the previous Planning Service.

The Vice-Chairman of the Committee, Councillor John Palmer, expressed his thanks to the Chairman and Members of the Committee, and also the officers associated with that committee, for their assistance and support during the past year when he had served as Vice-Chairman.

There being no further business, the Special Meeting concluded at 10.55 am.

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Chairman/Mayor



## Planning Committee

19 June 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 following applications are presented in accordance with the current scheme of delegation. There is one major application and three local applications, all of which have been Called In.

- (1) LA05/2022/0830/F - Demolition of existing buildings/structures and erection of mixed use development comprising mixed tenure residential development (36 dwelling houses, 55 apartments and 2 maisonettes), 6 Class B2 industrial/employment units (1,098 sq. metres) with service yard; 3 flexible work spaces/ Wi-Fi hubs (300 sq. metres); 2 take away coffee pod units; private, communal and public space, landscaping, cycle and car parking, associated site works and infrastructure and access arrangements from Moira Road on Lands at 160 Moira Road, Lisburn.  
Recommendation – Approval
  - (2) LA05/2022/0272/F – Two detached dwellings with provision for future garages between 42 Halfpenny Gate Road, Moira and Broomhedge Gospel Hall, 40a Halfpenny Gate Road, Moira.  
Recommendation – Refusal
  - (3) LA05/2021/1112/O – Proposed new dwelling in a small gap site within a continuously built frontage and which also forms part of an established cluster on land to the west of 6 Chapel Road, Glenavy.  
Recommendation – Refusal
  - (4) LA05/2022/0747/RM - Proposed infill of two dwellings and garages at lands between 15 and 21 Church Road, Lisburn  
Recommendation – Approval
2. The following applications will be decided having regard to paragraphs 42 to 53 of the Protocol of the Operation of the Planning Committee.

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?

**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?:

**Option 1**  
Screen out  
without mitigation

**Option 2**  
Screen out with  
mitigation

**Option 3**  
Screen in for  
a full EQIA

**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?

Has a Rural Needs Impact Assessment (RNIA) template been completed?

**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 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, 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 1a – LA05/2022/0830/F  
APPENDIX 1b – LA05/2022/0272/F  
APPENDIX 1c – LA05/2021/1112/O  
APPENDIX 1d - LA05/2022/0747/RM

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

If Yes, please insert date:

## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	19 June 2023
Committee Interest	Major
Application Reference	LA05/2022/0830/F
Date of Application	26 August 2022
District Electoral Area	Lisburn South
Proposal Description	Demolition of existing buildings/structures and erection of mixed use development comprising mixed tenure residential development comprised of 36 dwelling houses, 55 apartments and 2 maisonettes; 6 Class B2 industrial/employment units (total 1,098 sq. metres) with service yard; 3 flexible work spaces/ Wi-Fi hubs (total 300 sq. metres); 2 take away coffee pod units; private, communal and public space, landscaping, cycle and car parking, associated site works and infrastructure and access arrangements from Moira Road.
Location	Lands at 160 Moira Road, Lisburn
Representations	Two
Case Officer	Mark Burns
Recommendation	<b>Approval</b>

### Summary of Recommendation

1. This is a major application. It is presented to the Planning Committee with a recommendation to approve as it is accepted that significant material weight is afforded to the regeneration benefits of the proposed mixed use development that outweighs the loss of this site as existing employment land and the protection that is afforded to it in the SPPS and PPS 4.
2. These benefits afforded significant material weight include the:
  - Redevelopment of an underutilised site which has been vacant for almost 9 years to create a mixed use development in which approximately 20% of the land is retained for an employment use.

- Co-location of new residential development with new employment opportunities and enhanced access to public transport will help to support a healthier population, reduce congestion and support social inclusion.
  - Provision of new employment opportunities on site and access to other opportunities in the locality and beyond via public transport will help to deliver economic and social benefits.
  - Provide direct park and ride access to the proposed Knockmore rail halt to residents of Lisburn City from the Moira Road which is closer to Lisburn City Centre.
  - Promotion of good connectivity to a range of amenity facilities and services in the local area and the promotion of sustainable modes of travel and a reduction in private car usage through provision for a new ramped access and steps allowing access to the proposed Knockmore rail halt which is scheduled for construction in 2025.
3. The economic, social and community benefits of the comprehensive redevelopment of the site outweigh its retention as previously developed employment land.
  4. Securing the delivery of 6 business units 3 flexible work spaces and the creation of 40 construction and 30 net direct jobs in respect of the proposed employment use.
  5. It is considered that the proposal is also in accordance with the requirements of PED 8 of PPS 4 in that the design and layout of the residential part of the proposed development will ensure that the existing employment use on the neighbouring land can continue to operate without prejudice.
  6. It is also considered that the proposal is in accordance with the SPPS and Policy PED 9 of PPS 4 in that the assessment demonstrates how the general criteria for Economic Development have been met.
  7. The detailed layout and design of the residential part of the proposal creates a quality residential environment in accordance with the requirements of the SPPS and Policy QD1 of PPS 7 and when the buildings are constructed, they will not adversely impact on the character of the area not have a detrimental impact on the amenity of existing residents in properties adjoining the site.
  8. The proposal is considered to comply with the SPPS and Policy OS2 of PPS 8 – Open Space, Sport and Outdoor Recreation in that the detail demonstrates that public open space is provided as an integral part of the development consistent with Policy OS 2 and that arrangements will be put in place for the future management and maintenance of this space in perpetuity consistent with policy.
  9. The proposal complies with the SPPS and Policy AMP 3 of PPS 3 – Access, Movement and Parking in that it is considered that adequate detail has been provided to demonstrate that the creation of a new access onto a public road

- will assist with the movement of traffic into and out of the site without compromising standards of road safety or resulting in an unacceptable proliferation of access points.
10. The proposal complies with the SPPS and Policy AMP 7 of PPS 3 – Access, Movement and Parking in that detail demonstrates that an acceptable level of car parking is provide and includes park and ride facilities for the proposed Knockmore rail halt. Adequate servicing arrangements associated with the operation of the proposed business units has also been provided.
  11. The proposal complies with the SPPS and Policy AMP 8 of PPS 3 – Access, Movement and Parking in that provision has been made for the needs of cyclists.
  12. The proposal complies with the SPPS and Policy AMP 9 of PPS 3 – Access, Movement and Parking in that a high standard of design layout and landscaping accompanies the proposals for car parking with appropriate provision made for security, access and movement of pedestrians and cyclists.
  13. The proposal complies with the SPPS and Policy NH 2 of PPS 2 – Natural Heritage in that the ecology report submitted in support of the application demonstrates that the proposed development will give rise to no significant adverse effects on habitats or species of ecological or nature conservation value, the proposed development is unlikely to result in any cumulative impact upon these features when considered alone or with other developments nearby.
  14. The proposal also complies with the SPPS and policy NH5 of PPS 2 – Natural Heritage in that the ecology report submitted in support of the application demonstrates that the proposed development in that appropriate mitigation and/or compensatory measures have been proposed to outweigh the impact on priority habitats and priority species.
  15. The proposal also complies with the SPPS and policies FLD 2 and FLD 3 of PPS 15 – Planning and Flood Risk in that drainage assessment indicates that foul and surface water can be appropriately managed without impacting on existing surface water drainage infrastructure and causing flooding in the drainage network.
  16. For the reasons outlined in the report, is considered that the proposed development complies with paragraph 4.11 of the SPPS in that it will not present any significant impacts in respect of Noise and Air Quality.

## Description of Site and Surroundings

### Site Context

17. The site is located at 160 Moira Road Lisburn and comprised the former buildings and curtilage of animal feed mill which ceased operation in and around 2013.

18. The site measures approximately 3.5 hectares in size. It is irregular in shape and the topography of the site is relatively flat throughout.
19. The area to the north of the site is mainly scrubland and the boundary with the Belfast to Dublin railway line is defined by metal fencing and mature vegetation.
20. The boundaries to the west and east are defined by fencing and vegetation which separates the site from the existing residential properties and industrial units respectively.
21. The southern boundary of the site is formed by the Moira Road and the existing site entrance which is defined by a two-metre metal fence.

### Surrounding Context

22. The surrounding area is a mix of residential, business and industrial uses. The Knockmore Business Centre lies to the west of the site as does Flush Park Industrial Estate which are both assessed from Knockmore Road.
23. The land to the east, south and south west of the site are mainly residential in character along Tirowen Drive, Rosevale Meadows and Becchfield Mews.

### **Proposed Development**

24. The proposed development comprises the demolition of existing buildings and other structures within the site and the erection of a mixed use development mixed tenure residential development comprised of 36 dwelling houses, 55 apartments and 2 maisonettes (93 residential units in total); 6 Class B2 industrial/employment units (total 1,098 square metres) with service yard; 3 flexible work spaces/ Wi-Fi office hubs (total 300 square metres); 2 take away coffee pod units; private, communal and public open space; and associated landscaping, cycle parking; car parking, site works, infrastructure and access arrangements from Moira Road.
25. The application is supported with the following documents:
  - Pre-Application Community Consultation Report
  - Planning Statement (Updated)
  - Generic Quantitative Risk Assessment Report
  - Remediation Strategy, Implementation and Verification Plan
  - Residential Travel Plan
  - Service Management Plan
  - Car Parking Statement
  - Addendum to Transport Assessment Form and Transport Assessment
  - Drainage Assessment
  - Ecological Impact Assessment
  - Outline Construction Environmental Management Plan
  - Air Quality Impact Assessment
  - Noise Impact Assessment

## Relevant Planning History

26. There is no relevant planning history associated with this site.

## Consultations

27. The following consultations were carried out:

Consultee	Response
DfI Roads	No Objection
LCCC Environmental Health	No Objection
NI Water	No Objection
Drinking Water Inspectorate	No Objection
Natural Heritage	No Objection
Water Management Unit and Inland Fisheries Regulation Unit	No Objection
HED Historic Monuments	No Objection
DfI River Agency	No Objection
Shared Environmental Services	No Objection
NIE	No Objection
Translink	No Objection

## Representations

28. Two representations have been received in respect of the application. One is from a solicitor on behalf of the neighbouring business park and the other from the occupier of a property in the adjacent residential development of Rosevale meadows.

29. The following issues were raised:

- Binding Covenant on Land
- House Types
- Impact on Light and Privacy

- Mobile Phone Mast

## Planning Policy Context

### Relevant Policy and Guidance Documents

30. The relevant planning policy context which relates to the application is as follows:
- Regional Development Strategy 2035
  - Lisburn Area Plan 2001
  - Draft Belfast Metropolitan Area Plan (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 4 (PPS 4): Economic Development
  - Planning Policy Statement 6 (PPS 6): Planning, Archaeology and the Built Heritage
  - Planning Policy Statement 7 (PPS 7): Quality Residential Environments
  - Planning Policy Statement 13 (PPS 13): Transportation and Land Use
  - Planning Policy Statement 15 (PPS 15): Planning and Flood Risk
31. The relevant guidance is:
- Planning Advice Note on the Implementation of Planning Policy for the Retention of Zoned Land and Economic Development Uses
  - Creating Places
  - DCAN 8 – Housing in Existing Urban Areas
  - Parking Standards
  - Development Control Advice Note 15 - Vehicular Access Standards
  - Creating Places

### Environmental Impact Assessment (EIA)

32. 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.
33. An EIA determination was carried out and it was concluded that given this is previously developed land within the settlement of the Lisburn and the mix of uses are compatible with the surrounding uses 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**

34. 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.
35. On this basis the applicant was required to engage in pre-application community consultation (PACC).
36. A Pre-Application Community Consultation report [August 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.
37. In this case the PACC process involved an in person Public Information Event held on Thursday 23 June 2022 from 3pm – 7 pm at Laganview Enterprise Centre and the provision of a dedicated consultation website with Live Chat function. The website was launched on 10 June 2022
38. By the time it closed, the consultation site is reported to have had 536 unique visitors with nine live chat sessions recorded during the consultation period.
39. A dedicated email address was available for those wishing to make comment or seek more information on the proposed development.
40. A public advert notice providing details of the consultation website, online consultation session and how to access hard copies of the papers was published in the Ulster Star on Friday 10 June 2022.
41. An information leaflet was distributed to properties 500 metres surrounding the proposed development.
42. The format of the report that is submitted with the application in response to the consultation 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.

### **Local Development Plan**

43. 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.
44. 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.
45. As a consequence of this decision, the Lisburn Area Plan remains the statutory development plan for the area and whilst beyond its stated end date, the policies and designations remain applicable.

46. The site lies within the settlement development limit of Lisburn with the portion most recently used as feed mill identified as white land. The undeveloped portion of the site is zoned for industry as part of Zoning LD 14 – Other Industrial sites.
47. Within draft BMAP 2004, the application site is within the settlement limit of Lisburn on land zoned as Existing Industry/Employment – Zoning LC 14.
48. Within the 2014 draft revision of BAMP, the lands were designated as Existing Employment land – Zoning LC 13.
49. The site and the wider LC 14 zoning are not referenced in the Planning Appeals Commission (PAC) inquiry report therefore the existing employment zoning remains a significant material consideration in the assessment of the application and to be taken into account in consideration of the prevailing regional policy context.

### **Regional Policy Context**

50. The Regional Development Strategy 2035 provides an overarching strategic planning framework to facilitate and guide the public and private sectors. It does not redefine other Departments' strategies but complements them with a spatial perspective.
51. Paragraph 3.2 recognises that to underpin economic growth, Northern Ireland needs a modern and sustainable economic infrastructure. It also states that:
 

*decision makers will have to balance economic growth and the environmental impacts on air quality and energy supply for industry and transportation.*
52. Policy RG1 seeks to ensure adequate supply of land to facilitate sustainable economic growth.
53. Paragraph 3.3 states that:
 

*To ensure that Northern Ireland is well placed to accommodate growth in jobs and businesses there should be an adequate and available supply of employment land. It should be accessible and located to make best use of available services, for example water and sewerage infrastructure, whilst avoiding, where possible, areas at risk of flooding from rivers, the sea or surface water run-off. The focus will be on larger urban centres and regional gateways taking advantage of their locations on the regional transport network.*
54. Policy RG 2 seeks to deliver a balanced approach to infrastructure.
55. Paragraph 3.4 acknowledges that to remain competitive in the global market, it is important to continue to promote transport which balances the needs of our environment, society and economy through:
  - *Improving connectivity*

- *Maximising the potential of the Regional Strategic Transport Network.*
  - *Using road space and railways more efficiently.*
  - *Improving social inclusion.*
  - *Managing the movement of freight. There are specific issues to be addressed in relation to freight.*
  - *Improving access to our cities and towns.*
56. In balancing the wider strategic objectives of the RDS 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.*
57. The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.
58. 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.
59. 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.*
60. Paragraph 2.1 of the SPPS recognises that an objective of the planning system is to secure the orderly and consistent development of land whilst furthering sustainable development and improving well-being. It states that:
- planning system should positively and proactively facilitate development that contributes to a more socially economically and environmentally sustainable Northern Ireland. Planning authorities should therefore simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society*
61. Paragraph 3.6 of the SPPS states:
- planning authorities should make efficient use of existing capacities of land, buildings and infrastructure, including support for town centre and regeneration priorities in order to achieve sustainable communities where people want to live, work and play now and into the future. Identifying previously developed land within settlements including sites which may have environmental constraints (e.g. land contamination), can assist with the return to productive use of vacant or underused land. This can help deliver more attractive environments, assist with economic regeneration and renewal, and reduce the need for green field development.*
62. 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.*

63. 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.

64. Paragraph 4.11 of the SPSS 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.*

65. 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.

66. 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.

67. Paragraph 4.12 of the SPSS 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.*

68. 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.

69. At paragraph 6.89 of the SPSS it is stated that:

*It is important that economic development land and buildings which are well located and suited to such purposes are retained so as to ensure a sufficient ongoing supply. Accordingly, planning permission should not normally be granted for proposals that would result in the loss of land zoned for economic development use. Any decision to reallocate such zoned land to other uses ought to be made through the LDP process. While the same principle should also apply generally to unzoned land in settlements in current economic*

*development use (or land last used for these purposes); councils may wish to retain flexibility to consider alternative proposals that offer community, environmental or other benefits, that are considered to outweigh the loss of land for economic development use.*

70. It is further stated at paragraph 6.90 that:

*Some proposed developments may be incompatible with nearby economic development enterprises, either already operating, or approved. For example, activities giving rise to emissions such as dust, odour or micro-organisms may be incompatible with industrial enterprises requiring a particularly clean and contaminant free environment. Examples of the latter include pharmaceuticals, medical products, food products and research and development. Often, an individual enterprise engaged in one of these sectors will offer employment in specialised jobs and of significant importance to the local or regional economy. Accordingly, it is in the public interest to ensure that their operations are not unduly compromised through incompatible development. In other cases, incompatibility could arise when new residential development is approved in proximity to an existing economic development use that would be likely to cause nuisance, for example through noise, pollution or traffic disturbance. Where it is clearly demonstrated that a proposal for new or expanded development would prejudice the future operation of an established or approved economic development use, then it will normally be appropriate to refuse the application. However, it is incumbent on the planning authority to explore all reasonable means of mitigation with the developer and the established enterprise prior to determining the application.*

71. At paragraph 6.91 it is also stated that:

*All applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development.*

### **Planning and Economic Development**

72. There is no distinguishable difference policy at paragraphs 6.89 to 6.91 of the SPSS and the retained policies in PPS 4 - Planning and Economic Development which set out the planning policies for economic development uses and indicates how growth associated with such uses can be accommodated and promoted in development plans.

73. It seeks to facilitate and accommodate economic growth in ways compatible with social and environmental objectives and sustainable development.

74. Paragraph 3.1 states that the objectives of the Statement are:

- to promote sustainable economic development in an environmentally sensitive manner;
- to tackle disadvantage and facilitate job creation by ensuring the provision of a generous supply of land suitable for economic development and a choice and range in terms of quality, size and location;
- to sustain a

vibrant rural community by supporting rural economic development of an appropriate nature and scale;

- to support the re-use of previously developed economic development sites and buildings where they meet the needs of particular economic sectors;
- to promote mixed-use development and improve integration between transport, economic development and other land uses, including housing; and
- to ensure a high standard of quality and design for new economic development.

75. As this site is located in a settlement Policy PED 1 – Economic Development in settlements is a consideration and it states:

### Cities and Towns

#### *Class B1 Business Use*

*A development proposal for a Class B1 business use will be permitted in a city or town centre (having regard to any specified provisions of a development plan) and in other locations that may be specified for such use in a development plan, such as a district or local centre.*

*In addition, a development proposal for a Class B1(b) use as a call centre or B1(c) use for research and development proposals will be permitted within an existing or proposed industrial/employment area. Class B1(a) office use will only be permitted in an industrial/employment area when specified in a development plan.*

*Elsewhere in cities and towns a development proposal for a Class B1 business use will only be permitted where all the following criteria are met:*

- (a) there is no suitable site within the city or town centre or other location specified for such use in the development plan;*
- (b) it is a firm rather than a speculative development proposal for business use; and*
- (c) the proposal would make a substantial contribution to the economy of the urban area.*

*Where a development proposal for Class B1 business use satisfies the above criteria, applicants will be expected to demonstrate that an edge of town centre location is not available before a location elsewhere in the urban area is considered.*

#### *Class B2 Light Industrial Use and Class B3 General Industrial Use*

*A development proposal for a Class B2 light industrial use or Class B3 general industrial use will be permitted in an area specifically allocated for such purposes in a development plan or in an existing industrial / employment area provided it is of a scale, nature and form appropriate to the location. Elsewhere in cities and towns such proposals will be determined on their individual merits.*

#### *Class B4 Storage or Distribution Use*

*A development proposal for a Class B4 storage or distribution use will be permitted in an area specifically allocated for such purposes in a development plan.*

*In addition a Class B4 development will also be permitted in an existing or proposed industrial/employment area where it can be demonstrated: that the proposal is compatible with the predominant industrial/employment use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution in the industrial/employment resource both in the locality and the plan area generally. Elsewhere in cities and towns such proposals will be determined on their individual merits.*

76. The site is also existing zoned employment land and policy PED 7 – Retention of Zoned Land and Economic Development uses states that:

*Zoned Land in all Locations*

*Development that would result in the loss of land or buildings zoned for economic development use in a development plan (either existing areas or new allocations) to other uses will not be permitted, unless the zoned land has been substantially developed for alternative uses. An exception will be permitted for the development of a sui generis employment use within an existing or proposed industrial/employment area where it can be demonstrated that: the proposal is compatible with the predominant industrial use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution of the industrial/employment land resource in the locality and the plan area generally. Retailing or commercial leisure development will not be permitted except where justified as acceptable ancillary development.*

*Unzoned Land in Settlements*

*On unzoned land a development proposal that would result in the loss of an existing Class B2, B3 or B4 use, or land last used for these purposes, will only be permitted where it is demonstrated that:*

- (a) redevelopment for a Class B1 business use or other suitable employment use would make a significant contribution to the local economy; or*
- (b) the proposal is a specific mixed-use regeneration initiative which contains a significant element of economic development use and may also include residential or community use, and which will bring substantial community benefits that outweigh the loss of land for economic development use; or*
- (c) the proposal is for the development of a compatible sui generis employment use of a scale, nature and form appropriate to the location; or*
- (d) the present use has a significant adverse impact on the character or amenities of the surrounding area; or*
- (e) the site is unsuitable for modern industrial, storage or distribution purposes; or*
- (f) an alternative use would secure the long-term future of a building or buildings of architectural or historical interest or importance, whether statutorily listed or not; or*

- (g) *there is a firm proposal to replicate existing economic benefits on an alternative site in the vicinity.*

*A development proposal for the re- use or redevelopment of an existing Class B1 business use on unzoned land will be determined on its merits.*

77. The site is also adjacent to existing employment land and Policy PED 8 – Development incompatible with Economic Development Uses states that

*A proposal for development in the vicinity of an existing or approved economic development use that would be incompatible with this use or that would prejudice its future operation will be refused.*

78. As new employment use are proposed as part of the mixed use development Policy PED 9 - General Criteria for Economic Development is considered and it states that:

*A proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet all the following criteria:*

- (a) it is compatible with surrounding land uses;*
- (b) it does not harm the amenities of nearby residents;*
- (c) it does not adversely affect features of the natural or built heritage;*
- (d) it is not located in an area at flood risk and will not cause or exacerbate flooding;*
- (e) it does not create a noise nuisance;*
- (f) it is capable of dealing satisfactorily with any emission or effluent;*
- (g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified;*
- (h) adequate access arrangements, parking and manoeuvring areas are provided;*
- (i) 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;*
- (j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;*
- (k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;*
- (l) is designed to deter crime and promote personal safety; and*
- (m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.*

79. To assist in the consideration of proposal for mixed use development on site previously used for employment a Planning Advice Note on the Implementation of Planning Policy for the Retention of Zoned Land and Economic Development Uses was published.



80. The purpose of this advice note is to ensure an effective and consistent approach to implementing regional planning policy when determining planning applications, and to assist with local development plan preparation, in relation to:

- a) sites zoned for economic development use in a local development plan; and,
- b) planning applications on unzoned land that is currently used (or was last used) for economic development purposes 3. This advice note is an amplification of existing planning policy and supplementary planning guidance.

81. The advice note does not add to or change existing policy or guidance that is considered appropriate for assessing applications for economic development proposals and preparing local development plans.

82. Paragraph 21 states that:

*When making balanced judgements on the merits of a particular case or the potential loss of economic development land, planning officers should consider matters such as:*

- *The views expressed by all other interested parties during the public consultation process including those of local enterprise and business representatives;*
- *Accessibility to the regional transportation network and a variety of transport modes;*
- *The potential to regenerate existing urban areas through economic development or as part of a mixed use development;*
- *Accessibility to every member of the community, especially those in socially disadvantaged areas;*
- *Why a site is no longer required or considered suitable for continued economic development use;*
- *Evidence of the availability (or not) of alternative sites for economic development use (or the proposed alternative use) in the locality;*
- *Compatibility with neighbouring land uses;*
- *The views of relevant statutory and non-statutory consultees; and*
- *The availability of adequate services and infrastructure such as water and sewerage.*

### **Natural Heritage**

83. PPS 2 - Natural Heritage makes provision for ensuring that development does not harm or have a negative impact on any natural heritage or conservation.

84. 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

85. 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.*

86. 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.*

#### Habitats, Species or Features of Natural Heritage Importance

87. Policy NH5 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.*

*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**

88. A new access is proposed to the site and the Moira Road is a protected route within a settlement. 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.
89. 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**

90. 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

91. 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.*

92. 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.*

93. Policy AMP 3 – Access to Protected Routes states:

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

*Motorways and High Standard Dual Carriageways – 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.*

*Other 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.*

*Other Protected Routes – Within 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:*

- (a) where access cannot reasonably be taken from an adjacent minor road; or
- (b) in the case of proposals involving residential development, it is demonstrated to the Department's satisfaction that the nature and level of access onto the Protected Route will significantly assist in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points. The distinction between the various categories of Protected Routes is illustrated on the Protected Routes map.

### **Access, Movement and Parking Clarification of Policy AMP 3: Access to Protected Routes**

94. This document provides clarification to Policy AMP 3: Access to Protected Routes of PPS 3 'Access, Movement and Parking', published in February 2005, and must be read in conjunction with the policies contained within this PPS.

95. The policy as clarified states:

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

#### *Motorways and High Standard Dual Carriageways – 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.*

#### *Other Dual Carriageways, Ring Roads, Through-Passes and ByPasses – 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.*

#### Other Protected Routes – Within 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:*

- (a) *where access cannot reasonably be taken from an adjacent minor road; or*
- (b) *in the case of proposals involving residential development, it is demonstrated to the Department's satisfaction that the nature and level of access onto the Protected Route will significantly assist in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points.*

*The distinction between the various categories of Protected Routes is illustrated on the Protected Routes map.*

#### Transport Assessment

96. Policy AMP 6 Transport Assessment states that:

*In order to evaluate the transport implications of a development proposal the Department will, where appropriate, require developers to submit a Transport Assessment.*

#### Car Parking and Servicing Arrangements

97. 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.*

#### Cycle provision

98. Policy AMP 8 - Cycle Provision states that:

*Planning permission will only be granted for development providing jobs, shopping, leisure and services, including educational and community uses where the needs of cyclists are taken into account. Where appropriate provision of the following may be required:*

- (a) *safe and convenient cycle access;*
- (b) *safe, convenient and secure cycle parking having regard to the Department's published standards; and*
- (c) *safe and convenient cycle links to existing or programmed cycle networks where they adjoin the development site.*

*In addition major employment generating development will be required to make appropriate provision for shower and changing facilities.*

#### Design of Car Parking

99. Policy AMP 9 Design of Car Parking states:

*The Department will expect a high standard of design, layout and landscaping to accompany all proposals for car parking. Planning permission will only be granted for a proposal where all the following criteria are met:*

- (a) *it respects the character of the local townscape / landscape;*
- (b) *it will not adversely affect visual amenity; and*
- (c) *provision has been made for security, and the direct and safe access and movement of pedestrians and cyclists within the site.*



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

100. The guidance for Vehicular Access Standards are set out in Development Control Advice Note 15 and it stated 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.*

#### Parking Standards

101. The Parking Standards document provides relevant guidance for the parking requirement for the non-residential component of the proposed development sets out the parking standards that the Department will have regard to in assessing proposals for new development.

102. Paragraph 3 of the document states that the

*The principle objective of the parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of wider government policy aimed at promoting modal shift to more sustainable forms of transport.*

103. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to these 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.

### **Quality Residential Environments**

104. Ninety-three residential units are proposed as part of this development. The residential component of this scheme should be designed to be a quality Residential Environment. PPS 7 sets out the Department's planning policies for achieving quality in new residential development and is the proposal is considered against the requirements of this policy document.

105. 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.*

106. 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.*

### Creating Places

107. The policy requires the guidance in the Creating Places – Achieving Quality in Residential Developments’ (May 2000) to also be consid.

108. 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; and
- detailed design requirements.

109. Paragraph 7.16 provides guidance on separation distances stating:

*Where the development abuts the private garden areas of existing properties, a separation distance greater than 20 metres will generally be appropriate to minimise overlooking, with a minimum of around 10 meters between the rear of new houses and the common boundary.*

110. Paragraphs 5.19 – 5.20 provides guidance on the level of private open space provision as follows:

*Provision should be calculated as an average space standard for the development as a whole and should be around 70 square metres per house or greater. Garden sizes larger than the average will generally suit dwellings for use by families. An area less than around 40 square metres will generally be unacceptable.*

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

111. As the scale of the residential component development is more than 25 units open space is also required as part of the mixed use development.
112. PPS 8 sets out the Department's 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, and advises on the treatment of these issues in development plans.
113. Policy OS2 set out the requirement for public open space in new residential development and states that:

*planning authorities will only permit proposals for permit proposals for new residential development of 25 or more units, or on sites of one hectare or more, where public open space is provided as an integral part of the development. In smaller residential schemes the need to provide public open space will be considered on its individual merits.*

*An exception to the requirement of providing public open space will be permitted in the case of apartment developments or specialised housing where a reasonable level of private communal open space is being provided.*

*An exception will also be considered in cases where residential development is designed to integrate with and make use of adjoining public open space.*

*Where the provision of public open space is required under this policy, the precise amount, location, type and design of such provision will be negotiated with applicants taking account of the specific characteristics of the development, the site and its context and having regard to the following:*

- (i) A normal expectation will be at least 10% of the total site area;*
- (ii) For residential development of 300 units or more, or for development sites of 15 hectares or more, a normal expectation will be around 15% of the total site area; and*
- (iii) Provision at a rate less than 10% of the total site area may be acceptable where the residential development:*

- *is located within a town or city centre; or*
- *is close to and would benefit from ease of access to areas of existing public open space; or*
- *provides accommodation for special groups, such as the elderly or people with disabilities; or*
- *incorporates the 'Home Zone' concept.*

*For residential development of 100 units or more, or for development sites of 5 hectares or more, an equipped children's play area will be required as an 20 integral part of the development. The Department will consider an exception to this requirement where an equipped children's play area exists within reasonable walking distance (generally around 400 metres) of the majority of the units within the development scheme.*

*Public open space required by this policy will be expected to conform to all the following criteria:*

- *it is designed in a comprehensive and linked way as an integral part of the development;*
- *it is of demonstrable recreational or amenity value; • it is designed, wherever possible, to be multi-functional;*
- *it provides easy and safe access for the residents of the dwellings that it is designed to serve;*
- *its design, location and appearance takes into account the amenity of nearby residents and the needs of people with disabilities; and*
- *it retains important landscape and heritage features and incorporates and protects these in an appropriate fashion.*

*Planning permission will not be granted until the developer has satisfied the Department that suitable arrangements will be put in place for the future management and maintenance in perpetuity of areas of public open space required under this policy. Arrangements acceptable to the Department include:*

- (a) *a legal agreement transferring ownership of and responsibility for the open space to the local district council; or*
- (b) *a legal agreement transferring ownership of and responsibility for the open space to a charitable trust registered by the Charity Commission or a management company supported by such a trust; or*
- (c) *a legal agreement transferring ownership of and responsibility for the open space to a properly constituted residents' association with associated management arrangements.*

*In all cases developers will be responsible for the laying out and landscaping of public open space required under this policy.*

## **Planning and Flooding Risk**

114. 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.

115. 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

116. Within the context of the planning policies outlined above, the following assessment is made relative to this particular proposal.

### **Economic Development**

117. The application proposes a mixed use development and the detail indicates that approximately 2.78 hectares of the site will be lost to non-economic development uses [primarily residential use]. This equates to approximately 78 % of the entire site.

118. The application in so far as it comprises a residential element is contrary to both the SPPS and Policy PED 7 of PPS 4 in that it will result in the loss of land zoned for employment uses.
119. That said, a number of other material considerations are presented to be weighed in the assessment of the application including the view that significant weight should be afforded to the benefits that the mixed use development of the site will bring. The scheme is a sustainable means of securing an alternative employment use for part of the land adjacent to housing and offers opportunity for future residents to live close to their place of work as part of the comprehensive development and regeneration of the site.
120. It also offers enhanced connectivity from the City Centre to the strategic rail network arising from the developer providing a link y to the strategic rail halt at Knockmore via a new ramped access and steps. The wider community and social benefits of linking a sustainable transport node to new development has been found elsewhere in the United Kingdom to be a driver for future investment and the mixed use proposal has the potential to leverage further growth at the employment zoning adjacent to this site. .
121. Evidence is provided in support of this in the planning statement provided with the application. In terms of the material considerations considered to be weighed as significant in the context of the advice note prepared by the Department these are set out as follows.

*The views expressed by all other interested parties during public consultation process including those of local enterprise and business representatives.*

122. The Agent demonstrates at paragraphs 8.42 – 8.52 the views expressed during the Pre-Application Community Consultation process. The views expressed have been grouped under the following themes:
- Theme 1 - Housing/Social Housing
  - Theme 2 – Statement of Support
  - Theme 3 – Traffic
  - Theme 4 – Access Road
  - Theme 5 – Anti Social Behaviour
  - Theme 6 – Boundary Fencing
  - Theme 7 – Facilities/Amenities
  - Theme 8 – Vermin
  - Theme 9 – Safety
  - Theme 10 – Boundary Separation
123. A Lambert Smith Hampton Marketing brochure and marketing update is also submitted with confirmation provided by the Agent that the site is not suited for employment use as it has been vacant since 2013 and it is not viable to demolish, remediate and bring forward the site for employment use only.

Accessibility to the regional transportation network and a variety of transport modes

124. Paragraph 8.53 of the supporting planning statement submitted by the applicant indicates that access will likely be improved with the provision of the M1 – Knockmore link road close to the site. It is also explained that the application site is well served by a variety of transport modes which will be further enhanced by the delivery of the Lisburn West Knockmore Rail Halt which will be accessible from the application site via the proposed ramp access and stairs.
125. The site being so close to the rail halt is considered to be unique and it is considered more beneficial to deliver a mix of uses including residential which will bring substantial community benefits.

The potential to regenerate existing urban areas through economic development or as part of a mixed use development

126. At paragraph 8.56 – 8.58 of the updated planning statement, the view is expressed that the re-development of this under utilised site will create a truly mixed use development optimising the land use and infrastructure and that this will act as a catalyst, bringing life, jobs and vibrancy to the area. The view is also expressed that it will help to attract new businesses whilst providing a welcoming arrival point.
127. Wider community benefits are identified at paragraph 8.57 whereby the development will act as a gateway to the communities it will serve including the new development and beyond. The view is expressed that the higher footfall around the new rail halt and along pedestrian routes will create a sense of safety with the benefit of densification of residential accommodation and commercial activity around rail halts creating a greater demand for services in the locality.
128. Co-locating new residential development with new employment opportunities and access to public transport will help to support a healthier population, reduce congestion and support social inclusion.
129. Economic Benefits include the creation of an average of 40 Full Time Equivalent (FTE) jobs over the 30 month construction period along with a further 30 net direct jobs per annum FTE in the supply side including 15 for Lisburn residents.
130. The total GVA economic output achieved during construction phase of the project would be approximately £12 million.
131. In addition, £3 million annual resident income, growing local spending power and £2.1 million resident expenditure annually on retail and leisure goods and services.
132. Environmental benefits include a low carbon development in a highly sustainable location with development designed to Lifetime Home standards.

Accessibility to every member of the community, especially those in socially disadvantaged areas

133. The Planning Supporting statement confirms that the schemes mix of high quality homes, including social rented and wheelchair accessible homes will provide a foundation for well-being and will meet a diverse range of housing need.

Why a site is no longer required or considered suitable for continued economic development use.

134. Paragraphs 8.61 – 8.63 of the updated Planning Statement explains that the application site has been inactive since 2013 and that since the manufacturing use ceased, the former industrial buildings have been left in situ. The view is expressed that these buildings have a significant visual impact on the amenity of the area.
135. Reference is also made to the site having been actively marketed by Lambert Smith Hampton for economic development uses and that since this marketing commenced in March 2021, there has been little interest and no viewings.

Evidence of the availability (or not) of alternative sites for economic development use (or the proposed alternative use) in the locality

136. The view expressed by the applicant is that the proposed development will have minimal impact on the amount of land allocated for economic development use and the future availability of land. The view is also expressed that the proposed uses will complement the existing uses within the adjacent Knockmore Business Centre and Flush Industrial Estate.

Compatibility with neighbouring land uses and impact on adjoining land uses

137. Detail submitted with the application demonstrates that the majority of the proposed housing is located to the east of the site adjacent to the established residential housing.
138. Apartment Block C is located more to the east of the site. That said, it is sufficiently distant from the boundary with the adjacent Flush Park Industrial Estate by some 65 metres. The impacts from the adjoining lands uses is considered in the Noise Impact Assessment report and the assessment concludes that with mitigation no impact is likely to be caused nor is the apartment element likely to cause prejudice to the businesses operating from this part of the industrial estate.

The views of relevant statutory and non-statutory consultees

139. Advice received from Consultees is reflected throughout the assessment that follows. No objection is received from any of the consultees.



*The availability of adequate services and infrastructure such as water and sewerage*

140. Paragraphs 8.68 – 8.69 of the updated Planning Statement explains that the site is located within the settlement limit and as such it is already served by services and infrastructure. Advice from NI Water also confirms that there is capacity for the foul and detail of existing and proposed infrastructure is provided for within the Drainage Assessment submitted in support of the application.
141. Having regard to the other material considerations outlined, it is acknowledged by the applicant that the Council published an Employment Land Review document (Technical Supplement 3) in October 2019 as part of the preparation of its local development plan. Whilst the outcome of the Independent Examination is awaited at paragraph 4.17 it is noted that in recent years, the majority of job growth in the Council area has been within non B class sectors while the overall share of B class jobs has declined. It also notes that B1 (business) and B4 (storage and distribution) have grown strongly, whilst B2/B3 (light and general industrial) jobs have declined.
142. The document notes at paragraph 8.12 that the total available employment land supply in the Council area is 275.4 hectares and that based on a broad comparison of demand scenarios against the identified supply, LCCC would have more than sufficient employment space in quantitative terms to meet the needs arising from all of the scenarios considered.
143. The document indicates the potential surplus of employment land ranges from 230.6 hectares to 262.8 hectares depending on the scenario.
144. Whilst this empirical evidence is not prepared for the purpose of assessing individual application it assists in verifying a baseline position for the quantum of employment required and possible locations.
145. This is not the main location for anticipated future growth for employment in Lisburn which is at Blaris. It is however a secondary location that offers choice and variety for business who may wish to establish a new business where they have access to good transport links.
146. The case advanced by the applicant at paragraph 8.32 of the updated Planning Statement is accepted in that the proposed mixed use development will result in only a very marginal reduction in the overall level of employment land supply.
147. This mixed use scheme is considered to represent a more sustainable form of development as it will integrate housing and employment uses, promote choice and access to employment consistent with regional and strategic policy.
148. In this context and in accordance with the advice note it has been clearly demonstrated how the special circumstances of a particular case outweighs the preferred option of retaining the land or buildings for economic development use.

149. In particular the commitment from the developer to provide a link to the strategic rail network that unlocks the regeneration potential of the land is significant and given significant material weight.
150. Translink has advised that the Knockmore Rail Halt is in their programme of capital investment for 2025. The developer indicates a two year construction phase of development for this mixed used scheme beginning in 2024. The Council is advised that the works to deliver access to the halt are programmed to take place in line with the Translink draft programme of works.
151. Whilst the two projects overlap should one be delayed it is advised that any recommendation to approve be subject to a Section 76 planning agreement linking the requirement for the construction of the link to the halt before the last house is occupied.
152. If the Translink project is delayed then the developer should enter into a separate agreement in relation to the funding of the link and the transfer of the land with the objective of securing the link to the new rail halt when this becomes operational.
153. The assessment below demonstrates how the scheme has been designed to ensure that the residential part of the proposed development will ensure that the existing employment use on the neighbouring land can continue to operate without prejudice consistent with Policy PED 8 of PPS 4.
154. It also demonstrates how the general criteria for Economic Development set out in Policy PED 9 of PPS 4 have been met.

### **Quality Residential Environments**

#### Impact on the Character of Area

155. The area is in mixed use as outlined in the site and surroundings sections above. The residential dwellings located to the east are comprised predominantly of terrace and semi-detached dwellings set in medium sized plots with in-curtilage and onsite parking.
156. The residential element of this scheme comprises thirty six detached and semi-detached dwellings along with two bungalows. Four separate apartment blocks containing fifty three units in total are also proposed within the site.
157. The form and general arrangement of the buildings is considered to be characteristic of those built in the adjacent Rosevale Meadows and Rosevale Park to the east of the site and Beechfield Park to the South
158. The plot sizes and general layout proposed is consistent with and comparable with other built development in the vicinity of the site.

159. Based on a review of the information provided, it is considered that the character of the area would not be significantly changed by the proposed residential element of the development and it is considered that the established residential character of the area would not be harmed.

#### Layout/Design/Material and Impact on Residential Amenity

160. There are number of different house types proposed with sizes varying from 75 square metres to 95 square metres in size. The fifty three apartments located over four blocks range in size from 61 square metres to 84 square metres. A sample description of the some of the dwellings and apartments is outlined below.
161. House type D1 is a detached two bedroom dwelling measuring approximately 75 square metres in floor area. This dwelling will have a ridge height of approximately 8.3 metres.
162. The materials proposed for the dwelling include facing brick (buff), concrete interlocking roof tiles, composite doors to main front entrance, UPVC doors to side and rear entrances doors, grey double glazed UPVC windows and grey/black powder coated aluminium gutters and UPVC gutters and downpipes.
163. House type C is a semi-detached three bedroom dwelling measuring approximately 94 square metres in floor area and will have a ridge height of 8.5 metres.
164. The materials proposed for this dwelling include facing brick (red), concrete interlocking roof tiles, composite doors to main front entrance, UPVC doors to side and rear entrances doors, grey double glazed UPVC windows and grey/black powder coated aluminium gutters and UPVC gutters and downpipes.
165. Four blocks of apartments are proposed within the site. One block is located at the entrance and the other three units are located towards the rear of the site. The apartments are all approximately 65 square metres in floor area.
166. Apartment block A which is located at the entrance to the site will have a ridge height of approximately 12.5 metres.
167. The materials proposed for this block include facing brick (buff), concrete interlocking roof tiles, composite doors to main front entrance, UPVC double glazed doors, grey double glazed UPVC windows and grey/black powder coated aluminium gutters and UPVC gutters and downpipes.
168. The finishes proposed to the dwellings and apartments are considered to be acceptable and in keeping with the established character of this area.
169. The proposed layout is designed to ensure that there is appropriate separation distances between the proposed dwellings. The design and access statement confirms that the development has been designed to ensure that there is no adverse level of overlooking between the proposed dwellings.

170. Having regard to this detail and the relationship between the buildings in each plot it is considered that the guidance recommended in Creating Places is met.
171. Based on an assessment of the detail, it is accepted that the proposed layout is designed to ensure that there are appropriate separation distances between each plot within the application site.
172. The layout of the rooms in each of the units, the position of the windows and separation distance also ensures that there is no overlooking into the private amenity space of neighbouring properties. The buildings are not dominant or overbearing and no loss of light would be caused.

#### Provision of Open Space / Landscaping

173. Detail submitted with the application demonstrates that the provision of private amenity space varies from plot to plot ranging from a minimum of 40 square metres up to 373 square metres. The average provided across the site is generally consistent with the guidance in the Creating Places document for a medium density housing development made up of two and three bedroom units.
174. The apartment blocks have access to communal open space amenity areas within the of the perimeter of their blocks enclosed by fencing and blocks B, C, and D have access to roof terraces. The total average amenity space per apartment is 43 square metres.
175. A landscape management plan dated 26 August 2022 was submitted in support of the application. It outlines the strategy and approach for the future long term management and maintenance of the external public spaces associated with the proposed development.
176. It also details the maintenance programmes proposed to allow the proposal to visually integrate the development with its surroundings and develop a quality planting scheme that will reduce visual intrusion and enhance the development as a whole.
177. The management plan explains that the aim of the landscape proposal is to create a comprehensive planting scheme that will enhance the environment of the proposed development and to limit the impact of the proposed housing development in the landscape.
178. It details that the objectives are to introduce new tree, shrub and hedge planting of sizes and species to provide both age and species diversity.
179. The landscape plan demonstrates that the boundaries of the site have existing tree and native hedge planting, with various degrees of maturity. These would be complemented by additional tree planting to increase the screening effect of the boundary planting supplemented where necessary.
180. It is considered that this written management plan, in association with the detailed planting plan, is sufficient to ensure integration of and maintenance of

external public spaces and that the implementation of planting works should be conditioned to be carried out in the first available planting season prior to prior to the occupation of that phase of the development.

### **Natural Heritage**

181. Paragraph 9.2 of the updated Planning Statement indicates that the proposed site is not located within any statutory or non-statutory designated sites. It also recognises that the site is hydrologically linked to designated sites of international and national importance via the River Lagan.
182. An Ecological Impact Assessment carried out by RPS is submitted in support of the application. The aim of this assessment is to describe the existing ecological environment within and surrounding the proposed project; to identify potential ecological features; to identify the potential impacts associated with the proposed project during construction, operation and decommissioning; to evaluate the likely significance of effects on the ecological impacts and to highlight potential opportunities for ecological enhancements.
183. Section 3.3 of the Assessment explains that an Extended Phase 1 Habitat Survey was conducted in May 2021. At section 3.5, it is explained that a shadow Habitats Regulation Assessment has also been prepared to assist the Council in fulfilling its obligations under the Habitats Regulations.
184. The Ecological Assessment considers Habitats and Species within the site. With regard to Habitats, the habitats identified were considered to be of ecological value at a site level only. Whilst no visible watercourses or drainage ditches are identified onsite, the closest waterbody is identified as Flush Bridgestream. This watercourse is identified as being of regional ecological value.
185. In relation to species, the assessment identified Bats, Otters, Badgers and Birds. With regard to Otters, consultations and surveys identified no historic records of otter within 1 km of the site nor underground Holts above ground couches or any other evidence of otter recorded within the site.
186. Whilst consultations identified two history records of badgers within 1 km of the site, the closest was recorded 740 metres northwest of the site with the second 810 metres North West. There were no badger setts or evidence of badgers recorded within the site.
187. Boundary trees and scrub was considered to have potential to provide suitable nesting and foraging habitat for a range of bird species with a pair of nesting ravens noted on a stairwell ladder of the feed mill.
188. Consultations identified no historical records of bat species within the site. The assessment notes that the site is within an industrial/urban residential setting and that it consists of habitats including buildings, scatter trees, neutral grassland and scatter scrub which have potential to be used by a small number of bats for foraging and commuting. This along with the extensive illumination in the area associated with businesses within the industrial estate of Flush Bridge Industrial Estate is considered to make the site unsuitable for bats.

189. The assessment indicates at section 4.4.1.1 and 4.4.1.2 that the buildings and trees within the site were subject to Preliminary Roost Assessments to identify potential entry and exit points and/or features that could provide roosting habitat for bats.
190. With regard to the structures onsite, the additional surveys confirms that they have a low suitability to provide roosting habitat for bats. Likewise, trees within the boundary of the site have been assessed as providing negligible or low value for roosting bats due to the absence of suitable features.
191. The Ecological information submitted in support of the application confirms that the development will have no significant effect on habitats of species of local importance or regional importance.
192. A response from Natural Environment Division dated 06 December 2022 confirmed that it had considered the impacts of the proposal on the site and, on the basis of the information provided, is content with the proposal, subject to condition to ensure compliance with wildlife order.
193. A response from Shared Environmental Services dated 01 March 2023 confirmed that the application had been considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service (SES) on the Councils behalf.
194. Confirmation is also provided that an appropriate assessment in accordance with the Regulations having regard to the nature, scale, timing, duration and location of the project has been carried out and that the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects.
195. There is no reason not to disagree with the appropriate assessment of Shared Environmental Services in this instance and not accept the conclusion reached that the proposed development would not have an adverse effect on the integrity of any European site.
196. In reaching this conclusion, SES has assessed the manner in which the project is to be carried out including any mitigation. This conclusion is subject to the recommended mitigation measures being made a condition of any approval.

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

197. The P1 Form indicates that the proposal involves the construction of a new access to the public road for both vehicular and pedestrian use.
198. A Transport Assessment (TA) form prepared by RPS was submitted with the application.
199. The assessment notes that the Moira Road is a two lane carriageway which provides connectivity to Lisburn City Centre and from there further connections to the strategic road network are available.

200. Moira Road also provides connectivity to the North Lisburn Feeder road via Knockmore link and also forms part of the protected road network. It is a protected route within a settlement but there is no alternative access to a minor road.
201. The TA confirms that although the existing vehicular access can serve the proposed development, it is proposed to move the access in an easterly direction to create greater separation from the adjacent industrial/retail employment uses. The existing access will be closed off to the satisfaction of Dfi Roads.
202. The proposed development will be accessed via a new site access junction on Moira Road and visibility splays of 4.5 metres x 70 metres are shown on the site layout plan [drawing 02] to be provided in each direction. Dropped kerbs and tactile paving will be provided at the site access consistent with policy.
203. The TA confirms that the predicted proposed development will generate a total of 62 trips in the AM peak hour and 67 trips in the PM peak hour periods based on the 85<sup>th</sup> percentile trip rates.
204. The TA also confirms that it is anticipated that the co-working wifi hubs will not generate new trips onto the external road network, but will serve the proposed residents of the residential element of the scheme.
205. The report concludes that the additional traffic generated by the proposed development can be accommodated on the surrounding network
206. Provision is made in the scheme for a total of 185 spaces, this includes 71 incurtilage spaces, 74 communal spaces, 36 spaces associated with the industrial/business units and 4 EV charging spaces.
207. Based on the current parking standards and guidance in creating places the residential element of the development (91 units) would require a total of 172 parking spaces. These guidelines are applicable to both private housing and affordable/social housing.
208. The proposed development provides a total of 145 spaces which equates to 1.59 spaces per dwelling. That said, the agent has demonstrated through a parking statement that the reduction is due to the applicant's experience of other similar developments whereby a lesser provision has been observed to be required.
209. The parking statement concluded that the reduction in car parking provision within the proposed residential development is in with current Government Policy and strategy aimed at reducing the reliance on private car use in line with guidance set out in creating places and DCAN 8 – Housing in Urban Areas.
210. The statement also demonstrates that the development would qualify for reduced parking as car ownership will be below average for this part of Lisburn. It has been identified that in adjacent wards, Old Warren and Knockmore, there is an average of 1.21 and 0.68 cars per household respectively. Based on the 2 wards together there is an average of 1 car per household.

211. The site is also highly accessible, is located only 2.5 km out of Lisburn City Centre and has bus stops located within 100 metres of the site access.
212. This is one of the exceptions provided for in policy AMP 7 and there is no reason to disagree with the findings of the parking assessment.
213. Access to the rail halt from the proposed site is also an important material consideration. This element will unlock the full potential of the Lisburn West Railway Halt and will benefit future residents and workers. A ramp and stairs will be provided within the site providing direct access to the rail network along with a new bridged access to new platform over the ramp.
214. The access to the Rail Halt will deliver added value to the wider area in terms of facilitating enhanced public transport services. The applicant has agreed to provide the new ramped access and steps which will be delivered by Translink.
215. The new development will also provide a continuous footway link through the proposed development to the existing public network on the Moira Road providing a safe and separate route for pedestrians.
216. With regards to the parking for the Employment and Business uses 36 spaces and 4 EV spaces are to be provided. Whilst there is again a shortfall of 22 spaces the same case has been put forward for the deficit as was used above for the justification in the reduction of car parking spaces associated with the residential element of the proposal.
217. Seventy covered cycle stands are also proposed together with an area allocated to the rear of block B for future cycle parking for the rail halt.
218. Having considered the information put forward to demonstrate the reduced level of car parking provision it is considered the development site is well served by existing pedestrian and public transport services and the proposed connection to the West Lisburn Railway halt further enhances the attractiveness of public transport as a viable mode of transport to the site and that on balance a reduction of car parking provision in relation to this proposal is acceptable.
219. DfI Roads have not identified any concerns in relation to the detailed layout, access and arrangement of the parking and requested that final PSD drawings be prepared. The road layout will not change and will not affect the layout of the proposed buildings.
220. Based on a review of the detail and having regard to the advice from DfI Roads it is considered that the proposed development will not prejudice the safety and convenience of road users and that it complies with the relevant policy tests set out in policies AMP1, AMP2, AMP3 and AMP 7 of PPS 3.

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

221. Detail submitted with the application indicates that the site exceeds one hectare and that more than twenty-five residential units are proposed. As such open space must be provided as an integral part of this development.



222. The application provides for 91 residential units comprising bungalows, detached, terraced and apartments.
223. The detail associated with the site layout demonstrates that a number of public areas of open space are to be provided as part of the proposal. This space equates to approximately 8050 square metres which is 22% of the total site area and well in excess of the 10% expected for applications of this nature.
224. These pockets of amenity areas are designed to include informal pathways and planting providing easy and safe access for residents of the development. Furthermore, detail submitted with the application indicates that arrangements will be put in place for the future management and maintenance in perpetuity consistent with policy.
225. Based on a review of the information it is accepted that the proposal public open space is provided as an integral part of the development consistent with Policy OS 2 and that arrangements will be put in place for the future management and maintenance in perpetuity consistent with policy.

### **Planning and Flood Risk.**

226. An updated drainage assessment received in March 2023 takes account of minor changes to the overall layout of the site. Section 2.2 of the drainage assessment identifies existing flood risk associated with Watercourses and Surface Water.
227. Paragraph 2.21 confirms that a designated water course, the Flush Bridge Stream Part 1, flows along the western boundary of the site in a twin 1950 diameter culvert. This watercourse is confirmed as a tributary of the River Lagan.
228. Section 4 of the updated drainage assessment explains that it is proposed to install a new storm drainage system that will eventually discharge to the culverted watercourse at the same location as existing. Detail indicates that discharge will be at a rate of 149.23l/s – equivalent to the existing discharge rate. It also explains that the discharge will be limited by a hydrobrake on the outlet manhole.
229. Runoff from the site is calculated as 439.32/s, and it is therefore required to attenuate a flow of 99.6l/s within the site. It is explained that a total of 377 m<sup>3</sup> is required during a 1 in 100 year event and that attenuation is proposed to be provided in large diameter pipes and manholes.
230. Calculations for the drainage network include:
- A summer and winter event profile;
  - Storm return periods for up to an including seven day duration
  - A 10% allowance for urban expansion
  - A 10% allowance for climate change.

231. The assessment concludes that no new or existing properties are at increased risk of flooding from overland flow in a 1 in 100 year event.
232. With regard to Policy FLD2 - Protection of Flood Defence and Drainage Infrastructure, DfI Rivers advise that the site is bounded at the west by a culverted watercourse which is designated under the terms of the Drainage (Northern Ireland) Order 1973, and is known to DfI Rivers as: 'Flush Bridge Stream Pt 1' and that the site may be affected by undesignated watercourses of which we have no record.
233. Consistent with paragraph 6.32 of the justification and amplification to Policy FLD 2, the site layout [drawing 02] shows that an adjacent working strip along a watercourse is to be retained along with a working strip to facilitate future maintenance by DfI Rivers, other statutory undertaker or the riparian landowners.
234. In relation to Policy FLD3 - Development and Surface Water - DfI Rivers acknowledged that the drainage design requires further revisions.
235. Whilst no objection is offered, DfI Rivers recommend that any decision issued includes a condition that prior to the construction of the drainage network, that a final drainage assessment, compliant with FLD 3 and Annex D of PPS 15, is submitted to demonstrate the safe management of any out of sewer flooding emanating from the surface water drainage network.
236. Water Management Unit has also considered the impacts of the proposal on the surface water environment and in a response received on 6 December 2022 advise that they have no objection subject to NIW providing confirmation that the WWTW and associated sewer network is able to accept the additional load consistent with their regulations.
237. NI Water in a response received on 28 October 2022 confirmed that there was available capacity at the Waste Water Treatment Works and that there was a public foul sewer within 20 metres of the proposed development boundary which can adequately service these proposals.
238. Based on a review of the information provided and the advice received from both DfI Rivers, Water Management Unit and NI Water, it is considered that the proposed development is being carried out in accordance with the requirements of policies FLD 2 and 3 of PPS 15.

### **Contaminated Land Contaminated Land/Human Health**

239. A Generic Quantitative Risk Assessment (GQRA) report, has been provided by RPS in support of this planning application.
240. The report describes the investigations undertaken to characterise the existing ground conditions beneath the proposed site and to quantify the potential risks to the proposed development from soil borne gases, sub-soil contamination and groundwater.

241. The report is informed by site investigations and environmental monitoring data from a total of fifteen boreholes excavated to a depth of 6.0 metres and three boreholes excavated to twenty five metres to reach.
242. The installation of standpipes allowed ground gas and groundwater monitoring to be undertaken as part of the site assessment. A total of 12 further monitoring wells were installed to enable groundwater and ground gas data to be collected.
243. A Remediation Strategy, Implementation and Verification Plan dated February 2023 was submitted in response to comments from DAERA to address the hotspot of hydrocarbon contamination identified at borehole 13 of the Generic Quantitative Risk Assessment (GQRA) report.
244. Paragraph 3.3 identifies the following remedial measures in order to break identified pollutant linkages:
- Excavation works be undertaken at the site to remove or treat the residual sources of ground contamination identified above. Figure 1 within Appendix 2 shows locations of identified sources of contamination requiring treatment;
  - Impacted groundwater will be addressed initially by pumping from installed abstraction sumps. The impacted groundwater will either be removed from site for treatment or disposal, or treated onsite and circulated;
  - The excavation of soils from the site will be verified by validation sampling and testing from the bases and sides of the excavations;
  - The removal of impacted groundwater from the site will be verified by the results of groundwater sampling and testing from sumps installed within the abstraction area;
  - The results of validation tests on soil samples will be compared to the site specific remedial target concentrations derived by RPS following GQRA and presented within Appendix 4. Groundwater flow has been established by MCL to be in a north westerly direction, suggesting the possibility of an off-site source of groundwater contamination, particularly in the area around BH13 given its proximity to the site boundary. Therefore groundwater validation will demonstrate betterment of underlying groundwater conditions during groundwater treatment followed by three rounds of post treatment monitoring to further refine groundwater conditions.
245. Advice received from DAERAs Regulation Unit and Groundwater Team on 06 December 2022 confirmed that the Generic Quantitative Risk Assessment (GQRA) report and remedial strategy and proposed mitigation had been considered that they had no objection to the proposed development. Conditions to ensure the impact of the below ground contamination is mitigated are recommended.
246. The mitigation measures discussed above include the removal of soil from the site that have been contaminated with asbestos fibres.

247. With regards to groundwater a specialist contractor has been appointed to implement a dual phase extraction system which will be used to extract ground water and vapours. Monitoring of groundwater quality will be undertaken during the recovery process.
248. The Council's Environmental Health Unit also provided advice with regards potential impact on amenity and human health.
249. In relation to contamination and in receipt of the reports mentioned above and also commented upon by Regulation Unit, Environmental Health were content with similar conditions and informatives in this regard.

### Noise

250. A Noise Impact Assessment dated March 2023 was submitted in support of the application. The objective of the report is to assess the suitability of the site for residential development and to provide mitigation measures where necessary.
251. Noise sources in the area include traffic on the adjacent Moira Road and the Belfast to Dublin railway line which runs along the northern boundary of the site.
252. Baseline noise measurements were conducted at three locations in February 2019 and four locations in July 2022 within the proposed development site.
253. The noise monitoring locations were chosen in order to be representative of the existing noise environment.
254. The Noise Impact Assessment Design Statement concluded that with respect to professional Planning Guidance the development is deemed to be low/high risk.
255. The building structure along with glazing specifications within the proposed residential element of the scheme will ensure that internal noise levels will not exceed 30dB in bedrooms or 35 dB in living area in accordance with WHO design criteria and British Standards
256. It has also be concluded that measured noise levels in external amenity areas are less than 50dB externally. Screening effects of buildings and dwellings will reduce ambient daytime noise levels to with WHO guideline values and British Standards.
257. Environmental Health were consulted with the proposal and responded in May 2023 with no objections subject to condition's relating to acoustic barriers and mechanical ventilation.
258. Based on a review of the detail submitted in relation to Noise and the advice received from Environmental Health, it is accepted that the proposal subject to mitigation will not have an adverse impact on the amenity of residents. The requirements of paragraphs 4.11 and 4.12 of the SPPS are considered to be met.

### Air Quality

259. With regards to residential amenity an Air Quality Assessment dated March 2023 was submitted in support of the application. The objective of the report was to assess the impact on air quality during the construction phase. It also include detailed mitigation methods for controlling dust and pollution emissions associated with plant and vehicles.
260. The report concluded that during the construction phase impacts such as dust generation and plant/vehicle emissions are predicated to be of short duration and only relevant during the construction phase.
261. Implementation of the mitigation measures as set out in the Institute of Air Quality Management (IAQM) guidelines should reduce the residual dust effects to a level categorised as not significant/negligible
262. The Air Quality Assessment conclusion states that using professional judgement the resulting air quality effect of the proposed re-development is considered to be not significant overall and therefore there are no constraints to the development in the context of air quality.
263. Environmental Health were consulted with the proposal and responded in May 2023 with no objections subject to condition's stating that a construction and demolition noise assessment shall be submitted to the Council for approval prior to the commencement of development on the site.
264. Based on a review of the detail submitted in relation to Air Quality and the advice received from Environmental Health, it is accepted that the proposal subject to mitigation will not have an adverse impact on the amenity of residents. The requirements of paragraphs 4.11 and 4.12 of the SPPS are considered to be met.

### **Consideration of Representations**

265. Consideration of the issues raised by way of representation is set out in paragraphs below:
- Binding Covenant on Land
266. Reference is made to a covenant associated with lands to which the application relates whereby it binds the lands as follows:
- Not to use the land herein for any purpose other than industrial and for recreational purposes in connection with the factory on the lands herein.*
267. The view is expressed that the proposed development is in breach of this covenant.

268. Whilst the covenant details are not provided to officers in full, the clause as outlined is noted. That said, the onus will be on the applicant to ensure that they have obtained all the necessary permissions prior to any development being carried out. For this reason, only limited weight is attached to the concern expressed in this regard and it is not sufficient to justify a refusal of planning permission.
- House Types
269. As demonstrated in the report, the proposal includes a mix of house types. Detail associated with the proposed site plan [drawing 02] shows the gable end of a bungalow approximately four metres off the common boundary with 17 Rossvale Meadows.
270. Detail associated with the proposed site boundary treatment drawing indicates that a 1.8 metre high timber hit and miss fence will extend along the boundary with 17 Rossvale Meadows. The boundary will also be planted in accordance with the Planting Plan.
271. The dwelling proposed closest to number 17 Rossvale Meadows at site number 11 is a bungalow and it will sit on a similar level to this property. The relationship between the proposed dwelling and the existing dwelling is side to side at a distance of approximately 10 metres.
272. It is considered that given the existing levels, the dwelling to be constructed is single storey and the proposed boundary treatment that there will be no overlooking, overshadowing or loss of residential amenity to the existing property at 17 Rossvale Meadows.
273. Taking into account the proposed boundary treatments and house type proposed to be erected adjacent to 17 Rossvale Meadows, no impact on light or privacy will arise.
- Mobile Phone Mast
274. The detail associated with the application does not include any new additional phone masts.

## Conclusions

275. It is accepted that significant material weight is afforded to the regeneration benefits of the proposed mixed use development that outweighs the loss of this site as existing employment land and the protection that is afforded to it in the SPPS and PPS 4.
276. These benefits afforded significant material weight include the:
- Redevelopment of an underutilised site which has been vacant for almost 9 years to create a mixed use development in which approximately 20% of the land is retained for an employment use.

- Co-location of new residential development with new employment opportunities and enhanced access to public transport will help to support a healthier population, reduce congestion and support social inclusion.
  - Provision of new employment opportunities on site and access to other opportunities in the locality and beyond via public transport will help to deliver economic and social benefits.
  - Provide direct park and ride access to the proposed Knockmore rail halt to residents of Lisburn City from the Moira Road which is closer to Lisburn City Centre.
  - Promotion of good connectivity to a range of amenity facilities and services in the local area and the promotion of sustainable modes of travel and a reduction in private car usage through provision for a new ramped access and steps allowing access to the proposed Knockmore rail halt which is scheduled for construction in 2025.
277. The economic, social and community benefits of the comprehensive redevelopment of the site outweigh its retention as previously developed employment land.
278. Securing the delivery of 6 business units 3 flexible work spaces and the creation of 40 construction and 30 net direct jobs in respect of the proposed employment use.
279. It is considered that the proposal is also in accordance with the requirements of PED 8 of PPS 4 in that the design and layout of the residential part of the proposed development will ensure that the existing employment use on the neighbouring land can continue to operate without prejudice.
280. It is also considered that the proposal is in accordance with the SPPS and Policy PED 9 of PPS 4 in that the assessment demonstrates how the general criteria for Economic Development have been met.
281. The detailed layout and design of the residential part of the proposal creates a quality residential environment in accordance with the requirements of the SPPS and Policy QD1 of PPS 7 and when the buildings are constructed, they will not adversely impact on the character of the area not have a detrimental impact on the amenity of existing residents in properties adjoining the site.
282. The proposal is considered to comply with the SPPS and Policy OS2 of PPS 8 – Open Space, Sport and Outdoor Recreation in that the detail demonstrates that public open space is provided as an integral part of the development consistent with Policy OS 2 and that arrangements will be put in place for the future management and maintenance of this space in perpetuity consistent with policy.
283. The proposal complies with the SPPS and Policy AMP 3 of PPS 3 – Access, Movement and Parking in that it is considered that adequate detail has been

- provided to demonstrate that the creation of a new access onto a public road will assist with the movement of traffic into and out of the site without compromising standards of road safety or resulting in an unacceptable proliferation of access points.
284. The proposal complies with the SPPS and Policy AMP 7 of PPS 3 – Access, Movement and Parking in that detail demonstrates that an acceptable level of car parking is provide and includes park and ride facilities for the proposed Knockmore rail halt. Adequate servicing arrangements associated with the operation of the proposed business units has also been provided.
285. The proposal complies with the SPPS and Policy AMP 8 of PPS 3 – Access, Movement and Parking in that provision has been made for the needs of cyclists.
286. The proposal complies with the SPPS and Policy AMP 9 of PPS 3 – Access, Movement and Parking in that a high standard of design layout and landscaping accompanies the proposals for car parking with appropriate provision made for security, access and movement of pedestrians and cyclists.
287. The proposal complies with the SPPS and Policy NH 2 of PPS 2 – Natural Heritage in that the ecology report submitted in support of the application demonstrates that the proposed development will give rise to no significant adverse effects on habitats or species of ecological or nature conservation value, the proposed development is unlikely to result in any cumulative impact upon these features when considered alone or with other developments nearby.
288. The proposal also complies with the SPPS and policy NH5 of PPS 2 – Natural Heritage in that the ecology report submitted in support of the application demonstrates that the proposed development in that appropriate mitigation and/or compensatory measures have been proposed to outweigh the impact on priority habitats and priority species.
289. The proposal also complies with the SPPS and policies FLD 2 and FLD 3 of PPS 15 – Planning and Flood Risk in that drainage assessment indicates that foul and surface water can be appropriately managed without impacting on existing surface water drainage infrastructure and causing flooding in the drainage network.
290. For the reasons outlined in the report, is considered that the proposed development complies with paragraph 4.11 of the SPPS in that it will not present any significant impacts in respect of Noise and Air Quality.

### Recommendation

291. The application is presented with a recommendation to approve subject to conditions outlined and a Section 76 Agreement requiring the developer to
- Inform the Council when development will be commenced;



- Provide a link to the proposed Knockmore rail halt as shown on drawing 02 – Proposed Site Plan before the last residential unit is occupied; or
- Enter into an agreement with Translink before the occupation of the last residential unit to fund the construction of the link to the rail halt in the future up to a value to be agreed with the Council at this time.

## Conditions

292. 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. No development shall take place until drawings necessary to enable a determination to be made in accordance with Article 3 of the Private Streets (Northern Ireland) Order 1980 have been submitted to, and approved by, the Council.

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

3. All hard and soft landscape works shall be carried out in accordance with Drawing 01K bearing the date stamped 16<sup>h</sup> March 2023 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.

4. Prior to the occupation of the first dwelling, a phasing plan for the landscaping works shall be submitted to and agreed in writing with the Council.

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

5. Prior to the occupation of the first dwelling the hard and soft landscaping works shall be carried out in accordance with the agreed phasing plan and maintained and managed thereafter, in accordance with the approved Plan by a suitably constituted management company.

**Reason:** 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.

7. No retained tree as identified on Drawing 01K bearing the date stamped 16<sup>h</sup> March 2023 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

8. No more than 47 dwellings shall be built and occupied until the commercial/industrial units indicated as W1-W6 on the proposed site plan bearing the Council date stamp 16 March 2022 are fully constructed.

**Reason:** To ensure the delivery of the commercial/industrial units and comprehensive development of the site

9. The development hereby permitted shall not commence until a detailed remediation strategy to address the hotspot of hydrocarbon contamination identified at borehole BH13 in the RPS Group Ltd Generic Quantitative Risk Assessment Report, Moira Road, Lisburn, IBR1106, dated August 2022 is completed. This strategy must be submitted in writing and agreed with the Planning Authority and should identify all unacceptable risks on the site, the remedial objectives/criteria and the measures which are proposed to mitigate them (including maps/plans showing the remediation design, implementation plan detailing timetable of works, remedial criteria, monitoring program, etc).

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

10. The development hereby permitted shall not be occupied until the remediation measures as described in the remediation strategy submitted under Condition 9 have been implemented to the satisfaction of the Planning Authority. The Planning Authority must be given 2 weeks written notification prior to the commencement of remediation work.

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

11. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance available at

<https://www.gov.uk/guidance/landcontamination-how-to-manage-the-risks>. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

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

12. After completing the remediation works under Conditions 8, 9, and 10 and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/landcontamination-how-to-manage-the-risks>.

The verification report should present all the remediation, waste management and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and wastes in achieving the remedial objectives.

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

13. In the event that piling is required, no development or piling work should commence on this site until a piling risk assessment, undertaken in full accordance with the methodology contained within the Environment Agency document on "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention", has been submitted in writing and agreed with the Planning Authority. The methodology is available at:

<http://webarchive.nationalarchives.gov.uk/20140329082415/http://cdn.environment-agency.gov.uk/scho0501bitt-e-e.pdf>.

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

14. Operating hours of the commercial units, industrial units, employment units and take away coffee pod units shall not exceed 0700-2300 hours.

**Reason:** to protect the amenity of neighbouring dwellings with respect to noise.

15. During the operational phase of the commercial units, industrial units, employment units and take away coffee pod units no activity which is likely to generate excessive noise e.g. delivery, shall be undertaken outside 0800-2100 hours.

**Reason:** to protect the amenity of neighbouring dwellings with respect to noise.

16. Prior to occupation of the proposed dwellings hereby approved, a window system (glazing and frame) capable of providing a sound reduction index, when the windows are closed, of at least 38dB(A) RTRA, shall be installed to all habitable rooms on the north, east and west facades of blocks C and D all habitable rooms to block B. A window system (glazing and frame) capable of providing a sound reduction index, when the windows are closed, of at least 33dB(A) RTRA, shall be installed to all other habitable rooms within the development.

**Reason:** To achieve internal noise level in line with BS8233

17. Prior to occupation of the proposed dwellings hereby approved, passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 38dB(A) RTRA when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be installed to all dwellings in blocks B, C and D. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30dB(A), whilst providing a flow rate of at least 15 litres per second.

**Reason:** To achieve internal noise level in line with BS8233

18. Prior to occupancy of the dwellings a 1.8m high acoustic barrier shall be erected along the northern boundary of the site as presented on approved drawing 2646-DR-16-0004. The barrier should be constructed of a suitable material (with no gaps), should have a minimum self-weight of at least 10 kg/m<sup>2</sup> and so retained thereafter.

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

19. The development hereby approved shall be undertaken in strict accordance with the Outline Construction Environmental Management Plan dated March 2023 including the noise and dust mitigation measures contained therein.

**Reason:** To protect the amenity of neighbouring dwellings with respect to noise and dust

20. Construction hours for the development shall be limited to 0700-1800 hours Monday to Friday, 0800-1300 hours Saturdays with no construction works on Sundays or Bank Holidays

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

21. During demolition and construction of the development hereby approved if there are any signs of rodent activity on site, or at the request of the Council, a pest control management plan shall be submitted to the Council. The pest control management plan should include details of a survey, treatment and ongoing measures to control pests.

**Reason:** To ensure adequate control of pests

22. Prior to the installation of the combustion system(s) for heating and hot water to any non-residential elements of the development, with a rated thermal input greater than 1MW, the applicant must submit an updated air quality impact assessment. The updated air quality assessment shall provide specific details of the proposed combustion system including, emission rates and flue termination heights. The updated assessment must demonstrate that there will be no significant adverse air quality impacts associated with the operation of the proposed combustion systems. The combustion systems shall be maintained and operated in accordance with the approved details and retained thereafter.

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

23. The rated sound pressure level (LAR, 15mins) of any plant or equipment associated with the commercial units, industrial units, employment units and take away coffee pod units measured at 1m shall not exceed the background noise level of 43dB (0700-2300 hours) or 37dB (2300-0700 hours).

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

24. The development hereby approved shall be undertaken in strict accordance with the Noise Impact Assessment dated March 2023 and specifically the noise mitigation measures contained therein.

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

25. The development hereby approved shall be undertaken in strict accordance with the Dust Management Plan submitted as part of the Air Quality Impact Assessment dated March 2023 and specifically the dust mitigation measures contained therein.

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

26. Prior to occupancy of the development hereby approved, a clean cover system shall be installed to the garden areas of site 24, 25 and 26. The clean cover system shall form an encapsulation layer above the contaminated soils.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

27. Prior to occupancy of the development hereby approved a validation report containing full details of the selected cover system, the sampling

methodology and results shall be submitted to the Council for approval. The clean cover system shall be validated in accordance with Liverpool City Council Guidance – Verification Requirements for the remediation of Contaminated Land Cover Systems. Installation of the clean cover system must be overseen and validated by a suitably qualified environmental consultant.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

28. Prior to the commencement of development hereby approved, an internal vibration assessment in relation to block D shall be submitted to the Council for approval. The assessment shall include details of the proposed design of the foundation and floors.

**Reason:** To ensure development is compliance with BS6472-2:2008

29. Any artificial lighting to the development must minimise obtrusive light and conform to the maximum values of vertical illuminance within the environmental zone for exterior lighting control – E3 (Suburban). These values are contained within Table 3 of the Institution of Lighting Professionals Guidance Note 01/21- The reduction of obtrusive light.

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

30. Prior to the construction of development hereby approved, a construction and demolition noise assessment shall be submitted to the Council for approval. The assessment shall include details of the predicted noise level at adjacent noise sensitive properties and any proposed noise mitigation measures.

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

31. Operating hours of the commercial units, industrial units, employment units and take away coffee pod units shall not exceed 0700-2300 hours.

**Reason:** to protect the amenity of neighbouring dwellings with respect to noise.

32. During the operational phase of the commercial units, industrial units, employment units and take away coffee pod units no activity which is likely to generate excessive noise e.g. delivery, shall be undertaken outside 0800-2100 hours.

**Reason:** to protect the amenity of neighbouring dwellings with respect to noise.

33. Prior to occupation of the proposed dwellings hereby approved, a window system (glazing and frame) capable of providing a sound reduction index, when the windows are closed, of at least 38dB(A) RTRA, shall be installed to all habitable rooms on the north, east and west facades of blocks C and D all habitable rooms to block B. A window system (glazing and frame) capable of providing a sound reduction index, when the windows are closed, of at least 33dB(A) RTRA, shall be installed to all other habitable rooms within the development.

**Reason:** To achieve internal noise level in line with BS8233

34. Prior to occupation of the proposed dwellings hereby approved, passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 38dB(A) RTRA when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be installed to all dwellings in blocks B, C and D. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30dB(A), whilst providing a flow rate of at least 15 litres per second.

**Reason:** To achieve internal noise level in line with BS8233

35. Prior to occupancy of the dwellings a 1.8m high acoustic barrier shall be erected along the northern boundary of the site as presented on approved drawing 2646-DR-16-0004. The barrier should be constructed of a suitable material (with no gaps), should have a minimum self-weight of at least 10 kg/m<sup>2</sup> and so retained thereafter.

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

36. The development hereby approved shall be undertaken in strict accordance with the Outline Construction Environmental Management Plan dated March 2023 including the noise and dust mitigation measures contained therein.

**Reason:** To protect the amenity of neighbouring dwellings with respect to noise and dust

37. Construction hours for the development shall be limited to 0700-1800 hours Monday to Friday, 0800-1300 hours Saturdays with no construction works on Sundays or Bank Holidays

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

38. During demolition and construction of the development hereby approved if there are any signs of rodent activity on site, or at the request of the Council, a pest control management plan shall be submitted to the Council. The pest control management plan should include details of a survey, treatment and ongoing measures to control pests.

**Reason:** To ensure adequate control of pests

39. Prior to the installation of the combustion system(s) for heating and hot water to any non-residential elements of the development, with a rated thermal input greater than 1MW, the applicant must submit an updated air quality impact assessment. The updated air quality assessment shall provide specific details of the proposed combustion system including, emission rates and flue termination heights. The updated assessment must demonstrate that there will be no significant adverse air quality impacts associated with the operation of the proposed combustion systems. The combustion systems shall be maintained and operated in accordance with the approved details and retained thereafter.

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

40. The rated sound pressure level (LAR, 15mins) of any plant or equipment associated with the commercial units, industrial units, employment units and take away coffee pod units measured at 1m shall not exceed the background noise level of 43dB (0700-2300 hours) or 37dB (2300-0700 hours).

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

41. The development hereby approved shall be undertaken in strict accordance with the Noise Impact Assessment dated March 2023 and specifically the noise mitigation measures contained therein.

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

42. The development hereby approved shall be undertaken in strict accordance with the Dust Management Plan submitted as part of the Air Quality Impact Assessment dated March 2023 and specifically the dust mitigation measures contained therein.

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

43. Prior to occupancy of the development hereby approved, a clean cover system shall be installed to the garden areas of site 24, 25 and 26. The clean cover system shall form an encapsulation layer above the contaminated soils.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

44. Prior to occupancy of the development hereby approved a validation report containing full details of the selected cover system, the sampling



methodology and results shall be submitted to the Council for approval. The clean cover system shall be validated in accordance with Liverpool City Council Guidance – Verification Requirements for the remediation of Contaminated Land Cover Systems. Installation of the clean cover system must be overseen and validated by a suitably qualified environmental consultant.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

45. Prior to the commencement of development hereby approved, an internal vibration assessment in relation to block D shall be submitted to the Council for approval. The assessment shall include details of the proposed design of the foundation and floors.

**Reason:** To ensure development is compliance with BS6472-2:2008

46. Any artificial lighting to the development must minimise obtrusive light and conform to the maximum values of vertical illuminance within the environmental zone for exterior lighting control – E3 (Suburban). These values are contained within Table 3 of the Institution of Lighting Professionals Guidance Note 01/21- The reduction of obtrusive light.

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

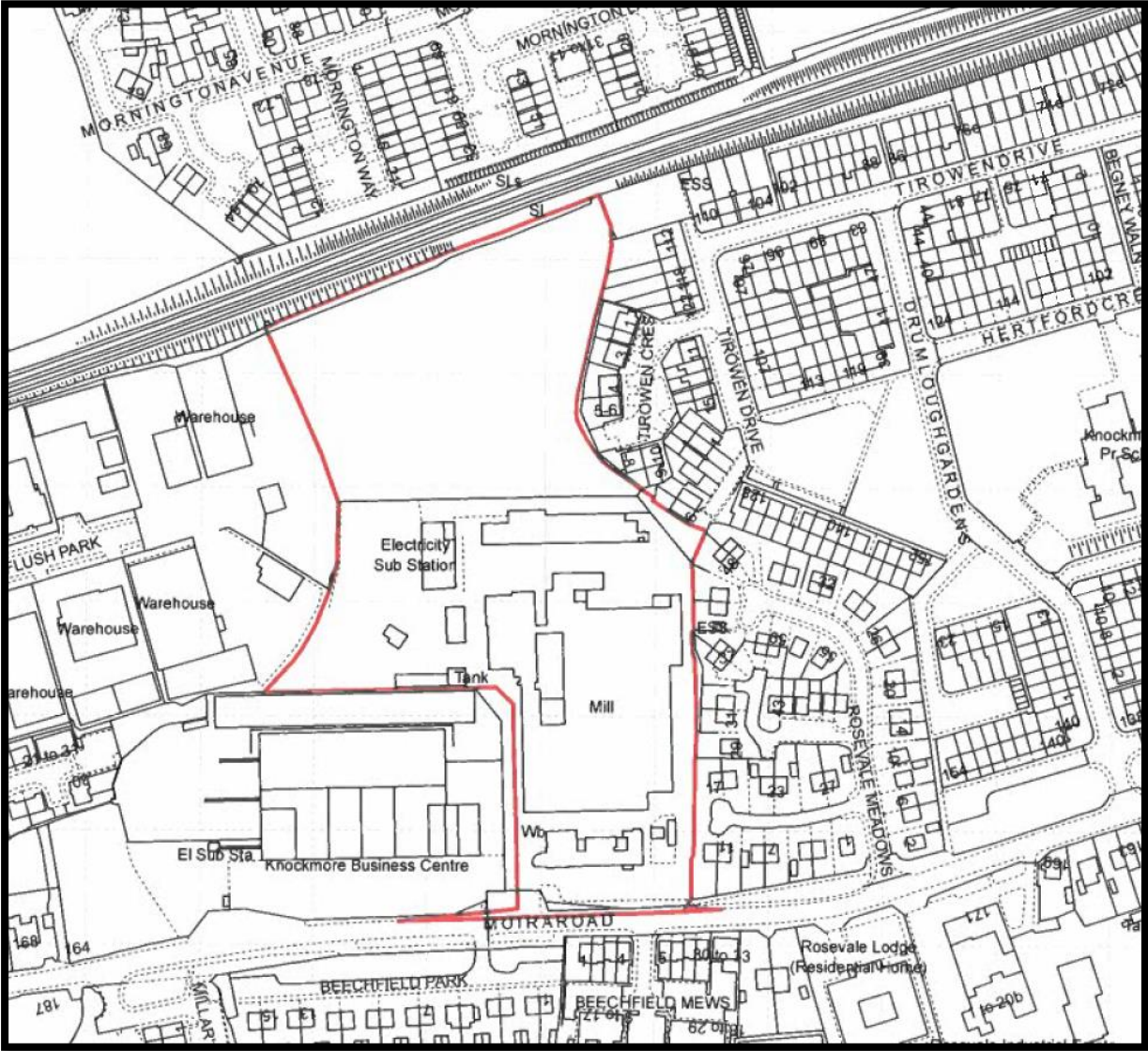
47. Prior to the construction of development hereby approved, a construction and demolition noise assessment shall be submitted to the Council for approval. The assessment shall include details of the predicted noise level at adjacent noise sensitive properties and any proposed noise mitigation measures.

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

48. The appointed contractor must submit a Final Construction Environmental Management Plan (CEMP) for agreement and approval by Lisburn and Castlereagh City Council Planning before commencement of any works on site. This plan should contain all the appropriate environmental mitigation as contained within the Outline CEMP and Shadow HRA both by RPS Consulting August 2022 and as advised by NIEA WMU and NIEA NED in their responses to the consultation dated 06/12/2022. CEMP mitigation to be implemented in full unless agreed in further consultation with Council.

**Reason:** To ensure that the appointed contractor is aware of and implements the appropriate environmental mitigation during construction phase that will negate effects on hydrologically connected European Site features.

Site Location Plan – LA05/2022/0830/F



## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	19 June 2023
Committee Interest	Local Application (Called In)
Application Reference	LA05/2022/0272/F
Date of Application	10 March 2022
District Electoral Area	Downshire West
Proposal Description	Proposed two detached dwellings with provision for future garages
Location	Gap between 42 Halfpenny Gate Road, Moira and Broomhedge Gospel Hall, 40a Halfpenny Gate Road, Moira
Representations	One
Case Officer	Sinead McCloskey
Recommendation	<b>Refusal</b>

### Summary of Recommendation

1. This application is categorised as a local application. It is referred to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that it has been Called In.
2. The application is presented to the Planning Committee with a recommendation to refuse as it is considered that the proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 1 of Planning Policy Statement 21 - Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
3. In addition the proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 8 of Planning Policy Statement 21 - Sustainable Development in the Countryside, in that the application site is not located within a small gap within an otherwise substantial and continuously built up frontage and it is considered the proposal will add to a ribbon of development which would result in a detrimental change to the rural character of the countryside.

4. It is also considered that the development would if permitted mar the distinction between the defined Settlement Limit of Halfpenny Gate and the surrounding countryside and is therefore contrary to policy CTY 15.
5. Furthermore it is considered that the development is contrary to the policies contained within Policy CTY 13 in that the site lacks long established natural boundaries, it relies primarily on the use of new landscaping for integration and it is a prominent feature in the landscape
6. Finally the proposal is contrary to Policy CTY14 in that it would be prominent in the landscape given the lack of backdrop and established boundaries, it would create a sub-urban style build-up of development and would also create a ribbon of development along Halfpenny Gate Road and thus be detrimental to the rural character of the area.

## Description of Site and Surroundings

### Site

7. The site is located to the northern side of the Halfpenny Gate Road. It is located within part of a larger agricultural field and the land within is relatively flat in nature.
8. There is no defined boundary to the south of the site, with any vegetation seemingly removed along the roadside. The eastern boundary consists of a two-metre hedgerow and a 1.5-metre close board fence. There is a single storey dwelling beyond this boundary at 42 Halfpenny Gate Road.
9. There is no defined boundary to the north of the site. The western boundary consists of a 1.5 metre close board fence, beyond which there is Broomhedge Gospel Hall.

### Surroundings

10. The site is located in the countryside, between the small settlements of Upper Broomhedge to the west and Halfpenny Gate to the east and are mainly comprised of low density housing.
11. Outside these settlements the land surrounding the site is primarily agricultural in use.

## Proposed Development

12. This is a full application for two detached dwellings. Provision is for garages within the curtilage of the site but no details of the design are provided.

## Relevant Planning History

13. The relevant planning history is set out in the table below.

Application Reference	Site address	Description of Proposal	Decision
S/2015/0008/O	Beside 42 Halfpenny Gate Road Moira	Proposed Gospel hall with off street car park and ancillary facilities	Permission Granted 12/02/2016
LA05/2016/1213/RM	Beside 42 Halfpenny Gate Road, Broomhedge, Moira	Proposed Gospel Hall with off street parking & ancillary facilities	Permission Granted 02/03/2017
LA05/2017/0868/O	Beside and SW of 42 Halfpenny Gate Road, Broomhedge, Moira	Two dwellings	Permission Refused 03/07/2019

14. Planning permission for two dwellings was refused under planning reference LA05/2017/0868/O on the 03 July 2019. The red line associated with this permission is slightly different to the current application in that it included a small portion of the land to the front of the Gospel Hall.
15. The proposal is virtually the same in all other respects and the inclusion of land in front of the Gospel Hall seems primarily to be for the purpose of achieving access to the site.
16. A recommendation to refuse planning permission had been endorsed by Members of the Planning Committee at a meeting held in July 2019.
17. The following refusal reasons were associated with the decision that issued:
- *The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.*
  - *The proposal is contrary to the SPPS and Policies CTY1 and CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is not considered to be a small gap in an otherwise substantial and continuously built up frontage and as a result the proposal will create a ribbon of development.*
  - *The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal lacks long established natural boundaries, it relies primarily*

*on the use of new landscaping for integration and is a prominent feature in the landscape.*

- *The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted be prominent in the landscape, create a sub-urban style build-up of development and add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.*
  - *The proposal is contrary to the SPPS and Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined Settlement Limit of Halfpenny Gate and the surrounding countryside.*
18. No appeal was lodged with the Planning Appeals Commission. This is not considered to be a repeat application within the meaning of the legislation as the extent of the application boundary is changed and no appeal was lodged for a similar proposal.

## Consultations

19. The following consultations were carried out:

Consultee	Response
DfI Roads	No Objection
Environmental Health	No Objection
NI Water	No Objection
Water Management Unit	No Objection
Natural Environment Division	No Objection
DFI Rivers	No Objection

## Representations

20. One representation in opposition to the proposal has been received. In summary, the following issues are raised:
- Planning History
  - Urban Sprawl
  - Rural Character

21. The issues raised in the objection has been considered as part of the assessment of this application.

### Planning Policy Context

22. The relevant planning policy context which relates to the application is as follows:
- Regional Development Strategy 2035
  - Lisburn Area Plan 2001;
  - Belfast Metropolitan Area Plan (Draft) 2004;
  - Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development (2015)
  - Planning Policy Statement 2 (PPS 2): Natural Heritage
  - Planning Policy Statement 3 (PPS 3): Access Movement and Parking
  - Planning Policy Statement 15 (PPS 15): Planning and Flood Risk
  - Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside
23. 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

24. 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 of applications must be in accordance with the plan unless material considerations indicate otherwise.
25. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan 2015 had not been lawfully adopted.
26. As a consequence, the Lisburn Area Plan (2001) operates as the statutory development plan for the area. However, the Belfast Metropolitan Area Plan (Draft) 2004 remains a material consideration in the assessment of individual Planning applications.
27. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside, and as such, there is no difference in the local plan context.

28. In draft BMAP (2004) this site was located in the open countryside and the Belfast Metropolitan Area Green Belt. It is stated at page 17 of the Plan Strategy document that:

*The Department has begun progressively to replace the Rural Strategy. The Planning Strategy section of the Rural Strategy has been superseded by the RDS, whilst the topic policy sections are progressively being replaced by PPS's. The Rural Strategy remain material considerations until superseded by PPS's.*

29. In the pre-adoption draft BMAP (2014) this site is located in the open countryside but reference to the Belfast Metropolitan Area Green Belt is removed. It is stated at policy SETT 4 at page 32 of Part 3 Volume 1 that:

*The policies contained in 'A Planning Strategy for Rural Northern Ireland', except where superseded by prevailing regional planning policies, will apply to the entire Plan Area.*

30. It then stated in the supplementary text under the policy at pages 32 and 33 that:

*PPS 7: Quality Residential Environments and PPS 7 Addendum: Safeguarding the Character of Established Residential Areas set out the prevailing regional planning policies for achieving quality in the design and layout of new residential developments. They embody the Government's commitment sustainable development and the Quality Initiative. They contain criteria-based policies against which all proposals for new residential development, including those on land zoned will be assessed, with the exception of single dwellings in the countryside. These will continue to be assessed under policies contained in PPS 21: Sustainable Development in the Countryside*

31. The Development Plan context is relevant to the extent that it made clear that regional policy documents would be forthcoming and that proposal should be assessed against the relevant regional subject policies.

### **Regional Policy Context**

32. The SPPS states

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

33. The local development plan is at Stage 1, and there is no Stage 2 draft. Thus, no weight can be given to the emerging plan. The transitional period remains operational.

34. The SPPS states

*'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.'*

35. It is stated that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

36. Paragraph 3.8 of the SPPS states

*'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.'*

37. 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.

38. In relation to development in the countryside and infill development (to which this application seeks approval for, as per the associated Supporting Planning Statement and Concept Plan) specifically, Paragraph 6.73 of the SPPS states

*'Provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage. Planning permission will be refused for a building which creates or adds to a ribbon of development.'*

39. Paragraph 6.78 of the SPPS states

*'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.'*

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

40. 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.

41. Policy CTY 1 states:

*'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.'*

*'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.'*

42. The policy states:

*'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.'*

43. As per the submitted concept, this application relates to a proposal for the development of a gap site for two dwellings as an exception to the policy requirement of CTY 1.

44. In terms of the principle of developing this site for two dwellings policy CTY 8 – Ribbon Development states:

*'Planning permission will be refused for a building which creates or adds to a ribbon of development.*

*An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.*

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

45. A building is defined in statute to include; a structure or erection, and any part of a building as so defined.
46. Regard is also had to the Justification and Amplification text associated with CTY 8 which states:

*5.32 Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable.*

*5.33 For the purposes of this policy a road frontage includes a footpath or private lane. 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.*

*5.34 Many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character. The infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. In considering in what circumstances two dwellings might be approved in such cases it will not be sufficient to simply show how two houses could be accommodated.*

47. In examining the detail of the proposal consideration is also given to policy CTY 13 – Integration and Design of Buildings in the Countryside which states;

*‘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

*‘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.'*

49. The development should also not cause a detrimental change to the rural character of a place and policy CTY 14 – Rural Character states

*'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 also states

*'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.'*

#### Building on Tradition

51. Whilst not policy, and of lesser weight as a guidance document, the SPPS states that:

*regard must be had to the guidance in assessing the proposal.*

52. Regard has been had to the principles and examples set out in Building on Tradition in considering this proposal and planning judgement applied to the issues to be addressed.

53. With regards to Policy CTY 8, Building on Tradition states;

*4.4.0 Introducing a new building to an existing cluster (CTY 2a) or ribbon CTY 8 will require care in terms of how well it fits in with its neighbouring buildings in terms of scale, form, proportions and overall character.*

*4.4.1 CTY 8 Ribbon Development sets out the circumstances under which a small gap site can, in certain circumstances, be developed to accommodate a maximum of two houses (or appropriate economic development project), within an otherwise substantial and continuous built up frontage. Where such opportunities arise, the policy requires the applicant to demonstrate that the gap site can be developed to integrate the new building(s) within the local context.*

54. The guidance also suggests:

- It is not acceptable to extend the extremities of a ribbon by creating new sites at each end.
  - Where a gap frontage is longer than the average ribbon plot width the gap may be unsuitable for infill.
  - When a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots.
  - Some ribbon development does not have a consistent building set back. Where this occurs the creation of a new site in the front garden of an existing property is not acceptable under CTY 8 if this extends the extremities of the ribbon.
  - A gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon.
55. It also notes at the following paragraphs that;
- 4.5.0 *There will also be some circumstances where it may not be considered appropriate under the policy to fill these gap sites as they are judged to offer an important visual break in the developed appearance of the local area.*
- 4.5.1 *As a general rule of thumb, gap sites within a continuous built up frontage, exceeding the local average plot width may be considered to constitute an important visual break. Sites may also be considered to constitute an important visual break depending on local circumstances. For example, if the gap frames a viewpoint or provides an important setting for the amenity and character of the established dwellings.*
56. Regard has been had to the principles and examples set out in Building on Tradition in considering this proposal and planning judgement has been applied to the issues to be addressed.
57. It includes infill principles, with examples, that have been considered as part of the assessment
- Follow the established grain of the neighbouring buildings.
  - Allow for clear definition of front and back, public and private sides to the plot which help address overlooking issues.
  - Design in scale and form with surrounding buildings.
  - Retain existing boundaries where possible and construct new boundaries using native hedgerows and natural stone walls to assist integration and local biodiversity.
  - Use a palette of materials that reflect the local area.
58. The proposed development is located on lands between two small settlements and could mar the distinction between these settlements and the open countryside. Policy CTY 15 – The Setting of Settlements is considered and states:
- Planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise*

*results in urban sprawl.*

59. Paragraph 5.83 of the justification and amplification states:

*that landscapes around settlements have a special role to play in maintaining the distinction between town and country, in preventing coalescence between adjacent built up areas and in providing a rural setting to the built up areas.*

60. Paragraph 5.84 states that:

*the principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built-up areas and surrounding countryside*

61. Paragraph 5.85 concludes by stating:

*Proposals that would mar this distinction or create urban sprawl will therefore be unacceptable.*

62. No mains sewer is available and septic tank and soakaway arrangements are proposed. Policy CTY 16 - Development Relying on Non-Mains Sewerage is considered and states

*'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.'*

63. The policy also states

*'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.'*

64. With regards to Policy CTY 16, Building on Tradition [page 131] states;

*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**

65. A bio-diversity checklist was volunteered in support of the application. Consideration needs to be given to the advice contained in the checklist and associated ecological evaluation.
66. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.
67. Policy NH5 addresses the impact on Habitats, Species or Features of Natural Heritage Importance and states:

*'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.'*

68. The policy also states :

*'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**

69. A new means of access is proposed to the public road which is considered against the requirements of PPS 3 - Access, Movement and Parking. This document 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.
70. Policy AMP 2 – Access to Public Roads states:

*'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

71. The guidance linked to understanding that a safe means of access can be achieved is set out in 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**

72. Within the context of the Planning policy tests outlined above, the following assessment is made relative to this particular application.
73. As the Courts have noted in the Glasdrumman Road, Ballynahinch case, officers bear in mind that the policy in Policy CTY 8 is restrictive, and there is a prohibition against ribbon development. There is a need to consider whether a proposal adds to ribbon development and if it does, does the proposal fall into the permissible exceptions to that policy. In this case, the proposal does engage ribbon development but none of the exceptions are met.

#### Ribbon Development

74. The first step of the policy test is to demonstrate that an **otherwise substantial and continuously built up frontage** exists.
75. Broomhedge Gospel Hall is located to the west of the site and to the east of the site there is a single storey dwelling at 42 Halfpenny Gate Road, and beyond this another dwelling and associated outbuildings at 44 Halfpenny Gate Road.
76. Whilst the application site and the Gospel Hall are within the countryside, the adjacent dwelling at 42 is located within the settlement limit of Halfpenny Gate as identified in draft BMAP. The development limits of this settlement can be seen to form the eastern boundary of the application site.
77. It is also noted that in the LAP 2001, that this dwelling, and indeed the adjacent dwellings at 44 and 44A are outside the development limit of



Halfpenny Gate, and in the open countryside. The development limit of this settlement in the LAP is seen extending along the side and rear boundary of the dwelling at 46B.

78. As explained above, the Belfast Metropolitan Area Plan (Draft) 2004 and its later revision in 2014 remain a material consideration in the assessment of this application and as such, the dwellings and outbuildings at 42 and 44 Halfpenny Gate Road are identified as being within the settlement limit of Halfpenny Gate.

79. As these dwellings and buildings do not occupy a rural context in policy terms, they cannot be included as buildings that form part of a substantial and continuously built up frontage for the purposes of assessment under Policy CTY8.

80. The principle of not including or counting buildings within the settlement development limit was established in appeal decision 2014/A0112. Paragraph 10 of the Commissioners report stated:

*'Whilst Nos 121-127 lie in the countryside, the dwellings to the east on which the appellant relies do not occupy a rural context in policy terms and therefore cannot be included when considering development proposals under Policy CTY8.'*

81. In an earlier appeal decision 2012/A0219, at paragraph 5 the Commission state that:

*'The other development does not therefore occupy a rural context in policy terms and cannot be counted when considering development proposals under Policy CTY2a.'*

82. Whilst it is noted that the consideration of the development proposals in this appeal were against a different policy, the fundamental principle of accepting adjoining development within a settlement limit in the assessment of applications occupying a different policy context, was still dismissed.

83. Within this context, it is considered that these buildings lie within the urban area and as such, they occupy a different policy context from the proposed rural site despite the Gospel Hall which is located to the west of the site being within the open countryside,

84. A supporting statement from the agent claims that both sides of the site are now within development limits and the site is bounded on both sides by developed sites.

85. This statement is incorrect however and only the dwelling at 42 is within the settlement of Halfpenny Gate. The Gospel Hall is within the countryside.

86. The supporting statement also claims that draft BMAP is only a material consideration and that the new LDP for LCCC has already rejected the development limit at this location.

87. As explained above, draft BMAP is a material consideration and forms an important part of this assessment. No weight can be given to the emerging plan at this stage. .
88. The supporting statement makes reference to the analysis carried out by officers within the context of planning application S/2015/0008/O - The Gospel Hall), being the same as that associated with the 2017 application for two dwellings. Reference was made to the view taken by officers that the hall would create coalescence and the gap to either side would create Urban Sprawl being overturned by the Planning Committee.
89. It is however important to note that the Gospel Hall had been granted planning permission in 2016 on the basis that it was considered to be an acceptable community facility in this countryside location.
90. The site context nor the policy context has changed in the intervening period, with the hall and the site still located within the countryside.
91. The supporting statement expresses the view that there is no longer a rural open margin between the settlement development limits at the subject site. The view is also expressed that a 30 metre frontage does not constitute open countryside.
92. Regardless of the size of the frontage, the site is outside any defined settlement limit.
93. For the reasons outlined above, the site is not considered to fall within a substantial and continuously built up frontage and as such, the first part of the policy tests is not met.
94. The second part of the policy requires there to be a small gap sufficient only to accommodate up to a maximum of two houses. The policy clearly refers to a gap site within an otherwise substantial and continuously built up frontage.
95. In considering whether a small gap site exists, while the policy text and supplementary guidance recognises that such a site may be able to accommodate two infill dwellings which respect the existing development pattern, officers have not assumed that any site up to that size is necessarily a small gap site within the meaning of the policy. Officers remain mindful that the issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
96. The exceptions test also requires consideration as to whether the proposed development respects the existing development pattern along the frontage in terms of size, scale, siting and plot size.
97. With that in mind and without prejudice to the view express that there is no substantial and continuously built up frontage, the characteristics of the gap identified have been considered.

98. It is acknowledged that the Building on Tradition guidance states that a gap site can be infilled with one or two houses if the average frontage of the plot equates to the average plot width in the existing ribbon.
99. The application site has a plot frontage of 30 metres. The adjacent Gospel Hall has a frontage of 40 metres and the dwellings at 42 and 44 have frontages measuring 32.8 metres and 27.8 metres respectively.
100. Whilst there is small variation of plot widths along the frontages of the existing properties, plot widths of 15 metres (the application is for two dwellings so the plot width is divided by two), are not considered to be comparable to that of the surrounding developments and for this reason, two dwellings would appear incongruous in the landscape when viewed against the existing development.
101. An assessment of the plot sizes demonstrates that the proposal is of an acceptable size to those around it within the immediate area. The plots sizes of the adjacent properties are as follows:
  - 42 - 0.1 Ha
  - 44 - 0.12 Ha
  - Gospel Hall – 0.21 Ha
102. This creates an average plot size of 0.143Ha. The application plot size is 0.24Ha, which would roughly equate to a plot size of 0.12Ha per dwelling. The proposed site is 0.023 ha less than the average which is considered to be insignificant when compared to the existing plots identified.
103. For the reasons outlined, it is also considered that the third test of the first exception policy has not been met as the proposed development would not respect the existing pattern of development along the frontage of this part of Halfpenny Gate Road for the reasons outlined above.
104. The fourth and final step of the exceptions test of Policy CTY 8 that must be considered is whether the proposal **meets other planning and environmental requirements**.
105. These requirements are considered below within the context of policies CTY 13 and 14.

#### Visual Break

106. It is considered that the application site provides an important visual break between the settlements and prevents their coalescence.
107. Whilst the size of the gap is not significant in itself it is considered that the gap [albeit between rural and urban context] does constitute an extremely important visual break between the settlements of Broomhedge and Halfpenny Gate, whereby it clearly demarcates that area between the built up edge of each settlement and the open countryside.

108. Taking all of the above into account, the proposal does not meet any of the the exceptions to policy CTY 8 of PPS 21.

### Integration and Design of Buildings in the Countryside

109. As explained above, two of the site boundaries are defined on the ground, one with a 1.5 metre close boarded fence and the other with a two- metre hedge. Given the limited vegetation to the boundaries or within the vicinity of the site to assist with integration, it is considered that two dwellings, would be prominent features in the landscape.
110. Furthermore, it is considered that site would be unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape. Instead, two new dwellings located on this site, would rely primarily on the use of new landscaping for integration contrary to policy.
111. In terms of ancillary works, it is acknowledged that a new shared vehicular access point would be created onto the public road. This access would lead directly onto an area which would accommodate the in-curtilage parking and manoeuvring of private vehicles for both dwellings. The access extends to the rear of the site, running between both dwellings, where it leads to further areas of hard standing to the rear of the dwellings and two garages. No long sweeping driveway nor ornate features have been proposed.
112. Taking the levels of the application site into account, it is not considered that the proposal would require significant cut and fill (excavation) to accommodate the proposed dwellings. No large retaining structures have been proposed. The proposed ancillary works are considered to be in accordance with Building on Tradition guidance and it is not considered that they would damage rural character.
113. The dwellings proposed are mostly single storey, with a storey and a half element to the rear. The single storey element is 5.6 metres in height, and the storey and a half element is 7 metres in height. Both dwellings are of the same design, consisting of a linear design, with two component parts, joined by a flat roofed central area. The roofs on both parts of the dwellings are pitched. The dwelling would be deemed to be quite modern in design, although it has retained a traditional form.
114. The windows are of a vertical emphasis. There are some larger picture windows throughout the design. The rear elevation is entirely glazed, but is not visible from the public road.
115. The dwellings are finished in a smooth render, with aluminium cladding in grey. Mini stone wall concrete tiles are proposed for the roofs and the windows and doors are black uPVC. The rainwater gutters and downpipes are black. The design associated with the application is considered to be acceptable at this location and in keeping with the finishes of dwellings and buildings within the vicinity.

116. It is considered that the proposed dwellings are sufficiently separated from each other and from the existing dwelling at 42 so as not to cause concerns in terms of overshadowing or overlooking.
117. There are no amenity concerns regarding the dwelling closest to the Gospel Hall as it is a community building and not a private residential dwelling.
118. The dwelling that is proposed closest to the existing dwelling is set back from the building line, and the south eastern corner is the closest point to the common boundary, but due to the alignment of this boundary the remainder of the house is set further back.
119. Although it is close in some parts, the fact that this part of the dwelling is single storey will prevent any concerns in terms of overlooking or over shadowing. The storey and a half element to the rear of the proposed dwelling is approximately ten metres from the boundary. There are no first floor windows on the side elevation that would cause concern for potential overlooking.
120. The garages are 4.5 metre in height, with a ground floor area large enough to accommodate one car. There is no first floor accommodation provided in these buildings and as such, it is accepted that the position and size of the garages will not cause any adverse effects to the adjacent dwelling.
121. The only backdrop which is provided within the context of the site is the existing dwelling at 42 Halfpenny Gate Road, and the Gospel Hall. There are no other natural features for a building to blend with.
122. As confirmed by question 20 of the P1 Form, the application does not relate to a dwelling on a farm and therefore in this particular instance, criterion (g) is not applicable.
123. For the reasons outlined above, the requirements of criteria (a), (b), (c) and (f) of Policy CTY 13 are not met.

#### Rural Character

124. Consistent with the advice offered above, it is not accepted that the proposal complies with the exceptions test of Policy CTY 8 and therefore it would by virtue of visual linkage/common frontage result in an addition to a ribbon development along Halfpenny Gate Road resulting in a suburban style build-up of development when viewed with existing buildings that would not respect the traditional pattern of settlement and harm the rural character of the area.
125. Furthermore, due to the lack of vegetation around the site, and the reliance on new planting to assist with integration, a dwelling on this site would be considered prominent at this location.
126. The requirements of criteria (a), (b), (c) and (d) of Policy CTY 14 are not met for the reasons outlined above.

### The Setting of Settlements

127. The site is located in the countryside between the settlements of Halfpenny Gate and Broomhedge.
128. This site provides clear definition between the two settlements and the intervening countryside and is an important visual break. Infill development between the gospel hall and the dwelling at 42 Halfpenny Gate Road (within the settlement limit) would cause coalescence of both settlements by removing the visual break marring the distinction between the settlement and the countryside resulting in urban sprawl.
129. The proposal is contrary to Policy CTY15 for the reasons outlined above.

### Development Relying on Non-Mains Sewerage

130. As per Q18 of the P1 Form, the disposal of foul sewage is proposed to be via a septic tank.
131. The Council's Environmental Health Unit were consulted as part of the application process. In a response, dated 07 April 2022, they stated they have no objection in principle to the means of disposal proposed.
132. The Water Management Unit of NIEA were also consulted on this application and responded with no objections and offered standing advice.
133. Based on a review of the information and advice received, it is accepted that the proposal is not likely to create or add to a pollution problem and is in accordance with the requirements of policy CTY 16.

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

134. Halfpenny Gate Road is not a Protected Route. The P1 Form and the Site Access Plan drawing, indicate that the proposed scheme involves the construction of a new access onto a public road. Visibility splays of 2.0 x 71 metres to the east and 2.0 x 84 metres to the west are shown from the new access onto the Halfpenny Gate Road.
135. DfI Roads were consulted as part of the application process. In a response dated 22 June 2022, DfI Roads confirmed that they had no objection to the proposal.
136. Based on a review of the information provided and the advice from DfI Roads, it is accepted that a safe access can be provided without prejudice caused to pedestrians or road users consistent with Policy AMP 2 of PPS 3.

## Natural Heritage

137. A biodiversity checklist and extended ecological statement was volunteered for consideration. This was reviewed and as a small portion of priority habitat hedgerow was identified it was considered necessary to consult with Natural Heritage Division.
138. Advice from Natural Environment Division dated 20 June 2022 acknowledged that no protected or priority species were recorded during the ecological assessment and that the small portion of NI priority habitat hedgerow is present in the north-eastern corner of the site was not impacted by the proposed development.
139. Taking the above advice into account, it is accepted that the proposal would not result in demonstrable harm being caused to any features of natural heritage importance and as such the requirements of policy NH5 of PPS 2 are met.

## Consideration of Representations

140. Consideration of the issues raised by way of third party representation are set out below:

### Planning History - refusal

141. The planning history is considered within the assessment. There has been no change in the policy context since the previous decision issued. This application is being refused for the same reasons as before.
142. The view is expressed that the Concept Analysis has stated that the Gospel Hall has created Urban Sprawl between the communities of Broomhedge and Halfpenny Gat and the objector considers this creates a precedent for this proposal.
143. The assessment demonstrates that the proposed scheme is contrary to the SPPS and Policy CTY 8 in that it fails to satisfy the exceptions tests would if approved result in the addition to ribbon development along this part of Halfpenny Gate Road. This is distinguishable and different from the Gospel Hall which was considered to be a necessary community facility with no other available site. The gap remains an important visual break irrespective of this history.
144. The site is not considered to be within a substantial and built up frontage as the dwelling at No.42 does not occupy a rural context as it is within the settlement limits of Halfpenny Gate for the reasons outlined.
145. The proposal is also contrary to Policy CTY15 as the development if approved would cause coalescence of both settlements by eroding the visual break and would mar the distinction between the settlement and the countryside resulting in urban sprawl.

### Rural Character

146. The assessment demonstrates how the proposal would impact on rural character. It also demonstrates how an approval would cause coalescence of both settlements by eroding the visual break, mar the distinction between the settlement and the countryside resulting in urban sprawl.

### Conclusions

147. Based on careful assessment of all the relevant material planning considerations, it is considered there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
148. The site is not considered to be a small gap in an otherwise substantial and continuously built up frontage and the proposal will add to a ribbon of development which would result in a detrimental change to the rural character of the countryside.
149. The development would if permitted mar the distinction between the defined Settlement Limit of Halfpenny Gate and the surrounding countryside and is therefore contrary to the SPPS and Policy CTY 15.
150. The development is also contrary to the SPPS and Policy CTY 13 in that that it lacks long established natural boundaries, it relies primarily on the use of new landscaping for integration and is a prominent feature in the landscape.
151. In addition the proposal is contrary to the SPPS and Policy CTY14 in that it would be prominent in the landscape given the lack of backdrop and established boundaries, it would create a sub-urban style build-up of development and would also create a ribbon of development along Halfpenny Gate Road and thus be detrimental to the rural character of the area.

### Recommendation

152. It is recommended that planning permission is refused.

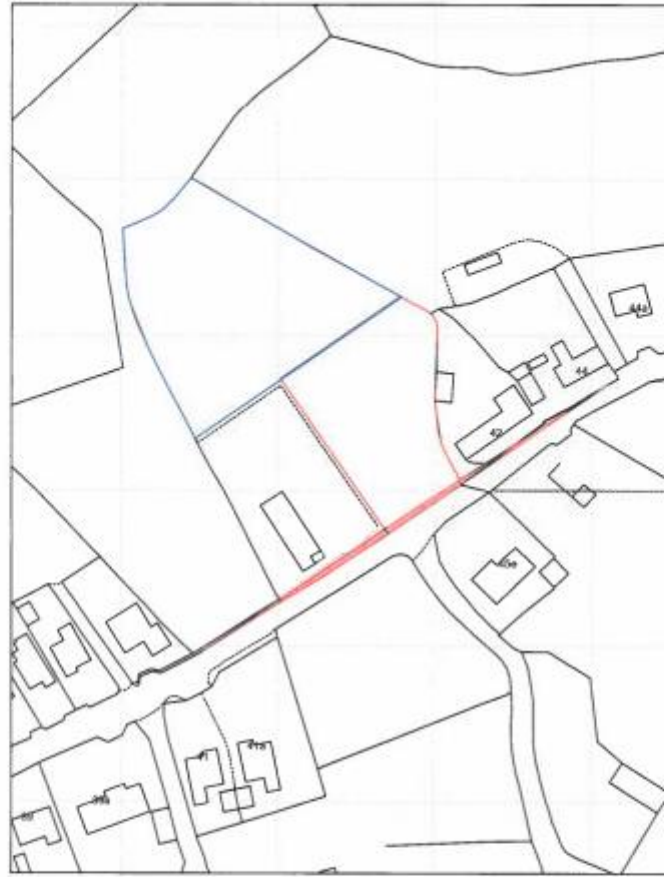
### Refusal Reasons

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



- The proposal is contrary to the SPPS and Policies CTY1 and CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is not considered to be a small gap in an otherwise substantial and continuously built up frontage and as a result the proposal will create a ribbon of development.
- The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal lacks long established natural boundaries, it relies primarily on the use of new landscaping for integration and is a prominent feature in the landscape.
- The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted be prominent in the landscape, create a sub-urban style build-up of development and add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
- The proposal is contrary to the SPPS and Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined Settlement Limit of Halfpenny Gate and the surrounding countryside.

### Site Location Plan - LA05/2022/0272/F



Lincoln & Gutteridge  
City Council  
Newborough Office  
10 MAR 2022  
LA05/22/0272  
File No.

Drawing No. 01

LCCC  
Lincoln & Gutteridge  
City Council



CLIENT  
**MR RAYMOND DAVIS**

PROJECT  
**PROPOSED DEVELOPMENT  
@ HALFPENNY GATE ROAD**

COPYRIGHT

JOB NO. **2126** DRAWING NO. **PL/00**

DRAWING  
**SITE LOCATION**

REV.	DATE	DESCRIPTION	DRAWN
		<b>PLANNING</b>	

DATE: **19.03.22** DRAWN: **CW**  
SCALE: **1:1000** CHECKED:

## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	19 June 2023
Committee Interest	Local Application (Called In)
Application Reference	LA05/2021/1112/O
Date of Application	11 October 2021
District Electoral Area	Killultagh
Proposal Description	Proposed new dwelling in a small gap site within a continuously built frontage and which also forms part of an established cluster
Location	Lands to the west of 6 Chapel Road, Glenavy BT29 4LY
Representations	None
Case Officer	Richard McMullan
Recommendation	<b>Refusal</b>

### Summary of Recommendation

1. This application is categorised as a local application. It is referred to the Committee for determination in accordance with the Protocol for the Operation of the Committee in that it has been Called In.
2. The application is presented to the Committee with a recommendation to refuse as it is considered to be contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
3. The proposal is contrary to the SPPS and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that;
  - the proposed dwelling is not located within an existing cluster of development which lies outside of a farm and consists of four or more buildings of which at least three are dwellings;
  - the proposed dwelling is not part of a cluster that appears as a visual entity in the local landscape.

- the proposed dwelling is not within a cluster of development that is associated with a focal point such as a social/community building/facility.
  - the identified site cannot provide a suitable degree of enclosure and it is not bounded on at least two sides with other development within a cluster of development.
  - the development of the site cannot be absorbed into a cluster of development as it is not located within one, through rounding off and consolidation as it would if permitted, visually intrude into the open countryside
4. The proposal is contrary to the SPPS and policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is not considered to be a small gap in an otherwise substantial and continuously built up frontage, and as a result the proposal will add to a ribbon of development along the Chapel Road.
  5. The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted create a sub-urban style build-up of development and add to a ribbon of development along Chapel Road and would therefore result in a detrimental change to the rural character of the countryside.

## Description of Site and Surroundings

### Site

6. The site is located on the northern side of the Chapel Road and to the west of 6 Chapel Road and comprises a triangular agricultural field.
7. Access is from a field gate towards the south eastern corner of the site and the land within is relatively flat throughout.
8. The eastern boundary is defined by a post and wire fence and the southern, northern and western boundaries are defined by mature hedgerow. A stream also runs along the western boundary of the site. An NIE 33Kv line also dissects the site running west to east close to edge of the road.

### Surroundings

9. There are two single storey dwellings at 6 and 8 Chapel Road to the east of the site. There is a horse ménage to the east of 8 Chapel Road. There is a two storey traditional farm dwelling at 4 Chapel Road.

10. There are a number of single dwellings opposite the site and a build-up of development at the junction of the Lurgan Road and Chapel Road. Beyond this the area is mainly rural in character and the land predominantly in agricultural use.

### Proposed Development

11. Planning permission is sought for a new dwelling in a small gap site within a continuously built frontage and which also forms part of an established cluster.

### Relevant Planning History

12. The planning history adjacent to the site is set out in the table below:

Reference	Description	Location	Decision
S/2003/1768/O	Conversion and extension of barn to form dwelling.	West of 8 Chapel Road, Aghadolgan, Glenavy, Northern Ireland, BT29 4LY	Approval
S/2005/0781/F	New dwelling.	West of 8 Chapel Road, Aghadolgan, Glenavy.	Approval
S/1994/0813/O	Replacement Dwelling	8 Chapel Road, Glenavy	Approval
S/1994/0814/	Replacement Dwelling	Beside 8 Chapel Road Glenavy	Refusal

### Consultations

13. The following consultations were carried out:

Consultee	Response
DfI Roads	No objection
Environmental Health	No objection
NI Water	No objection
NIEA NED	No objection

Consultee	Response
DfI Roads	No objection
Environmental Health	No objection
NI Water	No objection
SES	No objection
Rivers	No objection
NIE	No objection

**Representations**

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

**Planning Policy Context**

15. The relevant policy documents are:

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

16. 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**

17. 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.

18. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
19. As a consequence, the Lisburn Area Plan is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
20. 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.
21. In draft BMAP (2004) this site was located in the open countryside and the Belfast Metropolitan Area Green Belt. It is stated at page 17 of the Plan Strategy document that:

*The Department has begun progressively to replace the Rural Strategy. The Planning Strategy section of the Rural Strategy has been superseded by the RDS, whilst the topic policy sections are progressively being replaced by PPS's. The Rural Strategy remain material considerations until superseded by PPS's.*

22. In the pre-adoption draft BMAP (2014) this site is located in the open countryside but reference to the Belfast Metropolitan Area Green Belt is removed. It is stated at policy SETT 4 at page 32 of Part 3 Volume 1 that:

*The policies contained in 'A Planning Strategy for Rural Northern Ireland', except where superseded by prevailing regional planning policies, will apply to the entire Plan Area.*

23. It then stated in the supplementary text under the policy at pages 32 and 33 that:

*PPS 7: Quality Residential Environments and PPS 7 Addendum: Safeguarding the Character of Established Residential Areas set out the prevailing regional planning policies for achieving quality in the design and layout of new residential developments. They embody the Government's commitment sustainable development and the Quality Initiative. They contain criteria-based policies against which all proposals for new residential development, including those on land zoned will be assessed, with the exception of single dwellings in the countryside. These will continue to be assessed under policies contained in PPS 21: Sustainable Development in the Countryside*

24. The Development Plan context is relevant to the extent that it made clear that regional policy documents would be forthcoming and that proposal should be assessed against the relevant regional subject policies.

## 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. 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.*

29. In respect of new dwellings in existing clusters, paragraph 6.73 of the SPPS states that,

*Provision should be made for a dwelling at an existing cluster of development which lies outside a farm provided it appears as a visual entity in the landscape; and is associated with a focal point; and the development 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.*

30. In respect of infill dwellings, paragraph 6.73 of the SPPS states that,

Provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage. Planning permission will be refused for a building which creates or adds to a ribbon of development.

31. Having considered the content of both the SPPS and the retained policies and other prevailing policy tests, no distinguishable differences are found that should be reconciled in favour of the SPPS.

32. The provisions of Policy CTY 2A & CTY8 of PPS 21 therefore still apply.

33. 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.

34. Paragraph 6.78 of the SPPS also 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.*

### **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.*

*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.*

37. The applicant considers the proposed dwelling to be in a small gap site within a continuously built frontage which also forms part of an established cluster. The relevant policy context is set out below.

38. Policy CTY2 – New dwellings in existing cluster 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*

39. The applicant indicates that the site is only large enough to accommodate two dwellings without harming the character of the area. Policy CTY 8 – Ribbon Development states:

*Planning permission will be refused for a building which creates or adds to a ribbon of development.*

*An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.*

40. A building is defined in statute to include a structure or erection, and any part of a building as so defined.

41. Regard is also had to the justification and amplification that states:

- 5.32 *Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable.*
- 5.33 *For the purposes of this policy a road frontage includes a **footpath or private lane**. 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.*
- 5.34 *Many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character. The infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. In considering in what circumstances two dwellings might be approved in such cases it will not be sufficient to simply show how two houses could be accommodated.*

#### Building on Tradition

42. *Whilst not policy, and a guidance document, the SPPS states that regard must be had to the guidance in assessing the proposal. BOT notes:*
- 4.3.0 *Policy CTY2A of PPS 21, Sustainable Development in the Countryside, defines what constitutes a cluster and that it sets down very clear guidance on how new developments can integrate with these. The guidance also acknowledges that a key requirement is that the site selected has a suitable degree of enclosure and is bounded on two sides with other development in the cluster.*
- 4.4.0 *Introducing a new building to an existing cluster (CTY 2a) or ribbon CTY 8 will require care in terms of how well it fits in with its neighbouring buildings in terms of scale, form, proportions and overall character.*
- 4.4.1 *CTY 8 Ribbon Development sets out the circumstances under which a small gap site can, in certain circumstances, be developed to accommodate a maximum of two houses (or appropriate economic development project), within an otherwise substantial and continuous built up frontage. Where such opportunities arise, the policy requires the applicant to demonstrate that the gap site can be developed to integrate the new building(s) within the local context.*

43. The guidance also suggests:
- a. *It is not acceptable to extend the extremities of a ribbon by creating new sites at each end.*
  - b. *Where a gap frontage is longer than the average ribbon plot width the gap may be unsuitable for infill.*
  - c. *When a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots.*
  - d. *Some ribbon development does not have a consistent building set back. Where this occurs the creation of a new site in the front garden of an existing property is not acceptable under CTY 8 if this extends the extremities of the ribbon.*
  - e. *A gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon.*
44. It also notes at the following paragraphs that:
- 4.5.0 There will also be some circumstance where it may not be considered appropriate under the policy to fill these gap sites as they are judged to offer an important visual break in the developed appearance of the local area.*
- 4.5.1 As a general rule of thumb, gap sites within a continuous built up frontage, exceeding the local average plot width may be considered to constitute an important visual break. Sites may also be considered to constitute an important visual break depending on local circumstances. For example, if the gap frames a viewpoint or provides an important setting for the amenity and character of the established dwellings.*
45. Regard has been had to the principles of good design and the examples set out in Building on Tradition in considering this proposal and the planning judgement applied to the issues
46. 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.*
47. The policy directs 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.*

48. 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.*

49. 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.*

50. There is no main sewer and a septic tank and soakaway is proposed. As this is development Relying on Non-Mains Sewerage policy CTY 16 is considered and it states:

*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.*

51. 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.*

52. 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**

53. PPS 2 – Natural Heritage sets out planning policies for the conservation, protection and enhancement of our natural heritage.
54. There are hedgerow and trees on the boundaries which are considered against policy NH5 - Habitats, Species or Features of Natural Heritage Importance which 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.*

55. 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

63. 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.

64. The details of whether the access arrangements are appropriate are considered against policy AMP 2 – Access to Public Roads which 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

65. The guidance in Development Control Advice Note 15 – Vehicular Access Standards which is of lesser weight is also considered and which 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.*

### Planning and Flood Risk

66. The site is adjacent to a watercourse and the strategic flood map indicates the site could be in the floodplain. A flood risk assessment is submitted and considered against the requirements of PPS 15 –Planning and Flood Risk which 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.

67. 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 Northern Ireland and the implementation of sustainable drainage systems.

68. 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.*

69. Policy FLD 5 - Development in Proximity to Reservoirs states:

*New development 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

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

### New dwellings in Existing Clusters

71. A drawing has been provided by the Agent in support of the application outlining the characteristics of the site and indicating that the land sits within an already established existing cluster.



72. The drawing indicates that the Silver Eel (coloured purple) is the focal point for the purposes of the policy criteria.

A number of dwellings are also coloured orange to illustrate what buildings comprise the existing cluster of development.

73. Highlighted in the supporting drawing the following statements are outlined by the agent;
- The cluster lies outside of a farm and consists of 4 or more buildings of which at least 3 are dwellings.
  - The cluster appears as a visual entity in the local landscape;
  - The proposed site is situated in close proximity to the existing premises of the Silver Eel Pub which is a focal point.
  - It has suitable enclosure and bound on at least two sides by existing mature vegetation.
  - The proposed dwelling(s) can be absorbed into the existing cluster through rounding off & consolidation of existing character. -The development would not adversely impact on residential amenity.
  - With regards CTY 13 & CTY 14 the agent has stated that the design of any future buildings will be sympathetic and integrate into the landscape and will not damage the rural character of its surroundings.
74. Taking into account the information provided in conjunction with an assessment on the ground, it is considered that the site does not fall within the cluster of development that is noted around the Silver Eel public house.
75. The site located approximately 130 metres to the east of the Silver Eel Public House. It is considered that the cluster of development associated with the Silver Eel Public House terminates at 4 Chapel Road - annotated as 'working farm' upon the supporting map.
76. The distance between number 4 Chapel Road and the application site is approximately 95 metres and the area comprises a field, laneway and a stream and mature landscaping.
77. There is no visual linkage from the application site to the Silver Eel public house, due to the curvature of the road and the intervening mature landscaping.
78. Also neither 4 Chapel Road or the Silver Eel Pub are visible when viewed in an easterly direction from the front of 6 Chapel Road
79. It is considered that this demonstrates that the application site, river, and field to its west do not form part of the cluster of development.

80. Furthermore it is considered that the gap between 4 Chapel Road and 6 Chapel Road (field, laneway, river and application site) provides a visual break between the identified cluster and 6 Chapel Road.
81. As a consequence it is considered that the application site does not lie within an existing cluster of development.
82. Looking at the balance of the policy criteria associated with Policy CTY 2A of the site does also not fall within a cluster which is comprised of four or more buildings of which at least three are dwellings.
83. In turn it is considered that the application site does not fall within a cluster of development that appears as a visual entity within the local landscape. The buildings are too widely dispersed to be considered a cluster.
84. As a consequence, the site is not within a cluster that is associated with a focal point such as a social/community building/facility, or is located at a cross-roads.
85. It is considered that the development as proposed is contrary to the SPPS and policy CTY2a for the reasons outlined.

#### Ribbon Development

86. Turning then to the consideration of whether this is a suitable infill site. As the Courts have noted in the Glassdrumman Road, Ballynahinch case, officers bear in mind that the policy in Policy CTY 8 is restrictive, and there is a prohibition against ribbon development. There is a need to consider whether a proposal adds to ribbon development and if it does, does the proposal fall into the permissible exceptions to that policy. In this case, the proposal does engage ribbon development but none of the exceptions are met.
87. The first step of the policy test is to demonstrate that an otherwise substantial and continuously built up frontage exists.
88. As you move in an easterly direction from the junction of Chapel Road and Lough Rad, there is a two storey dwelling at 4 Chapel Road. There are also two agricultural sheds located within its curtilage one of which is located along the road frontage.
89. There is then a gap comprised of part of an agricultural field, a laneway leading to a site to the rear of the application site and a bridge over a stream which defines the western/northern boundary of the application site.
90. Beyond this are two dwellings at 6 and 8 Chapel Road.
91. When viewed from the application site it is noted that 6 Chapel Road and 8 Chapel Road (and associated ancillary buildings) are visible and read with the application site.

92. The dwelling at 4 Chapel Road to the west of the application site however does not read with the application site when viewed from the front of the site. There is no sequential awareness given the shape of the road and the established vegetation along both sides of the watercourse.
93. Based on an assessment of the detail it is considered that the site does not fall within an otherwise substantial and continuously built up frontage.
94. The second step of the policy test is to demonstrate if a small gap site sufficient only to accommodate up to a maximum of two houses exists.
95. In considering whether a small gap site exists, while the policy text and supplementary guidance recognises that such a site may be able to accommodate two infill dwellings which respect the existing development pattern, officers have not assumed that any site up to that size is necessarily a small gap site within the meaning of the policy. Officers remain mindful that the issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
96. The exceptions test also requires consideration as to whether the proposed development respects the existing development pattern along the frontage in terms of size, scale, siting and plot size.
97. With that in mind and without prejudice to the view express that there is no substantial and continuously built up frontage, the characteristics of the gap identified have been considered.
98. The gap measured from the conservatory of the dwelling at 6 Chapel Road to the first agricultural building associated with the dwelling at 4 Chapel Road is approximately 110 metres.
99. Plot sizes and frontages are annotated by the applicant/agent on a supporting plan as follows;
  - 4 Chapel Road  
Road frontage width - 77m  
Plot Size-3350m.sq (0.335h)
  - 6 Chapel Road  
Road frontage width - 53m  
Plot size-2000m.sq (0.2h)
  - 8 Chapel Road  
Road frontage width - 38m  
Plot size-960m.sq (0.096h)
  - Application site  
Road frontage width - 61m  
Plot size-1650m.sq (0.165h)

- Adjacent field  
Road frontage width - 31m  
Plot size-1460m.sq (0.146h)
43. Based on an analysis of this information, the average frontage width and plot sizes associated with the sites identified by the Agent to fall within the substantial and continuously built up frontage are 56 metres and 0.20 hectares.
44. The application site provides a frontage to the road of 61 metres. This is some **5 metres** wider than the average existing plot frontage.
45. The measurements taken by the case officer differ slightly from those provided in support of the application. They are seen to be as follows;
- 4 Chapel Road  
Road frontage width - 80.4m  
Plot Size - 0.2h
  - 6 Chapel Road  
Road frontage width - 52.4m  
Plot size - 0.2h
  - 8 Chapel Road  
Road frontage width - 35.7m  
Plot size - 0.1
  - Application site  
Road frontage width - 65.9m  
Plot size - 0.2h
  - Adjacent field  
Road frontage width - 22.3m  
Plot size - 0.0h
46. Based on an analysis of this information, the average frontage width and plot sizes associated with the sites identified by the case officer to fall within the substantial and continuously built up frontage are 56.1 metres and 0.16 hectares. The site frontage is considered to be 65.9m which is +9.8 metres. greater that the average frontage width.
47. Taking the field adjacent to and to the west of the application site into account the average frontage of the application site and adjacent field (which is not within the control of the applicant) would measure **44.10 metres**.
48. Given the difference between the average measurements as outlined it is considered that the supporting information which seeks to illustrate the potential for two dwellings (one within the application site and one within an adjacent field not within the control of the applicant) would be unacceptable and does not provide support for the application as proposed.

49. The measurements illustrates that the plots along the road are not uniform in their nature with the average plot sizes found for the existing development (4, 6 & 8 Chapel Road) measuring 0.16 hectares. The area of the application site measures 0.2 hectares, some 0.04 hectares larger.
50. When considered in its own right this would not be considered to be significant, when taken in conjunction with the assessment as a whole, it is considered that these measurements further illustrate that the development of the application site would not respect the existing development pattern found in respect of size, scale, siting and plot size and is therefore contrary to policy CTY8.
51. Consideration has also been given to the significance of the gap. The curvature of the road, in conjunction with the present of an existing bridge and stream along with the mature landscaping and distances as outlined, illustrates that the application site provides for an important visual break in the developed appearance of the countryside at this location.
52. Guidance in Building on Tradition does state at paragraph 4.5.0 that it may not be appropriate to fill gaps with development that are important visual break. For the reasons discussed above, this is considered to be one of these gaps.
53. For the reasons outlined in the assessment above, its is contended that the proposal is contrary to the SPPS and policy CTY 8 of PPS 21 in that it has not been demonstrated that the it is an exception to the policy.

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

54. Turning then to Policy CTY13, and taking into account, the, it is considered that a dwelling of appropriate design, scale and massing would not be a prominent feature within the local landscape given there are long established natural boundaries which would provide for a suitable degree of enclosure. Roadside hedging that would be required to be removed to provide access to the site, can be conditioned to be replaced thereby maintaining rural character without relying upon new landscaping for integration purposes.
55. Any ancillary works would be of a scale that would harm the character or appearance of the landscape.
56. As this application seeks outline approval only no design details have been provided. That said, a dwelling could be sited and designed so as to integrate into the rural landscape.
57. This application does not seek permission for a dwelling on a farm, therefore point (g) of Policy CTY 13 does not apply.

### Rural Character

58. In terms of Policy CTY 14 it is considered for the reasons outlined above that no issues with respect to prominence shall arise.
59. That said, as demonstrated above, the proposal is contrary to policy CTY 8 and as such, it would if approved result in a suburban build-up of development when viewed with existing buildings within the local area contrary to criteria (b). This would be contrary to criteria (b) of policy CTY 14.
60. Furthermore and for the reasons outlined, the development would add to a ribbon of development along this section of the Chapel Road. This in turn would result in a detrimental change to and would further erode the rural character of the area contrary to criteria (d) of policy CTY14.

### Development Relying on Non-Mains Sewerage

61. Details submitted with the application indicates that a septic tank is proposed as a means of non-mains sewerage provision.
62. NI Water, DAERA Water Management Unit and LCCC Environmental Health (subject to condition of detail being provided) have raised no objections to the proposed development.
63. Based on an assessment of the detail and the advice received, it is considered that the applicant has demonstrated that the proposal will not create or add to a pollution problem. The policy tests associated with Policy CTY 16 are met.

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

64. It is proposed to construct a new access to the public road to provide access to the site. The concept indicates this will be close to the south eastern corner where the field gate is located.
65. A detailed drawing has been provided illustrating the proposed new access with visibility splays of 2.4 metres by 62 metres to the left side and 2.4 metres by 70 metres to the right side of the access looking into the site.
66. DfI Roads have been consulted and offer no objections to the access arrangements as proposed on the grounds of road safety or adverse traffic impact. The Council has no reason to disagree with this advice.
67. The site is large and the concept drawing illustrates adequate space would be available within the curtilage of the proposed development for the parking and manoeuvring of vehicles associated with the development.

68. It is therefore considered that the development is in keeping with the requirements of policy AMP2 of PPS 3. As the Chapel Road is not a Protected Route, policy AMP 3 is not engaged.

### **Natural Heritage**

69. This application site is seen to be located adjacent to a stream and its boundaries are seen to consist of mature trees and hedging. A biodiversity checklist is submitted given these landscape features have the potential to be habitat.
70. As a consequence consultation with the WMU and NED units of DAERA were required. The SES have also provided comment in respect of the development and any potential issues in respect of the natural heritage features of the site and also remote from it.
71. NED outlined that they have considered the impacts of the proposal on the designated landscape feature of natural heritage interest and, on the basis of the information provided no objection.
72. A building could be accommodated within the site whilst retaining existing habitat. There is no reason to disagree with the advice of the consultee and the requirements of policy NH 5 are met in full.

### **Planning and Flood Risk**

73. The site is adjacent to a watercourse and the site lies within the strategic floodplain, Rivers Agency have provided comment in respect of the development as proposed. It is noted that a Flood Risk Assessment (FRA) was provided in support of this application.
74. Rivers outline with respect of policy FLD 1 Development in Fluvial and Coastal Flood Plains that they have reviewed the detail of the FRA and, whilst not being responsible for its preparation, accept its logic and has no reasons to disagree with its conclusions. The development of the land will not result in the loss of capacity in the floodplain and exacerbate flooding elsewhere. It is therefore considered that the development meets the requirements of FLD1.
75. With respect to FLD 5 it is outlined that the application site is in a potential area of inundation emanating from Stoneyford Reservoir and Leathemstown Reservoir.
76. DFI Rivers outline that they are in possession of information confirming that Stoneyford & Leathemstown Reservoir has 'Responsible Reservoir Manager Status'. Consequently, DFI Rivers has no reason to object to the proposal from a reservoir flood risk perspective.

77. As such, it is considered that the development is therefore in keeping with the requirements of policy FLD 5 of PPS 15.

## Conclusions

78. The application is considered to be contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
79. The proposal is contrary to the SPPS and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that;
- the proposed dwelling is not located within an existing cluster of development which lies outside of a farm and consists of 4 or more buildings of which at least three are dwellings;
  - the proposed dwelling is not part of a cluster that appears as a visual entity in the local landscape.
  - the proposed dwelling is not within a cluster of development that is associated with a focal point such as a social/community building/facility.
  - the identified site cannot provide a suitable degree of enclosure and it is not bounded on at least two sides with other development within a cluster of development.
  - the development of the site cannot be absorbed into a cluster of development as it is not located within one, through rounding off and consolidation as it would if permitted, visually intrude into the open countryside
80. The proposal is contrary to the SPPS and Policies CTY1 and CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is not considered to be a small gap in an otherwise substantial and continuously built up frontage, and as a result the proposal will add to a ribbon of development along the Chapel Road.
81. The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted create a sub-urban style build-up of development and add to a ribbon of development along Chapel Road and would therefore result in a detrimental change to the rural character of the countryside.



## Recommendations

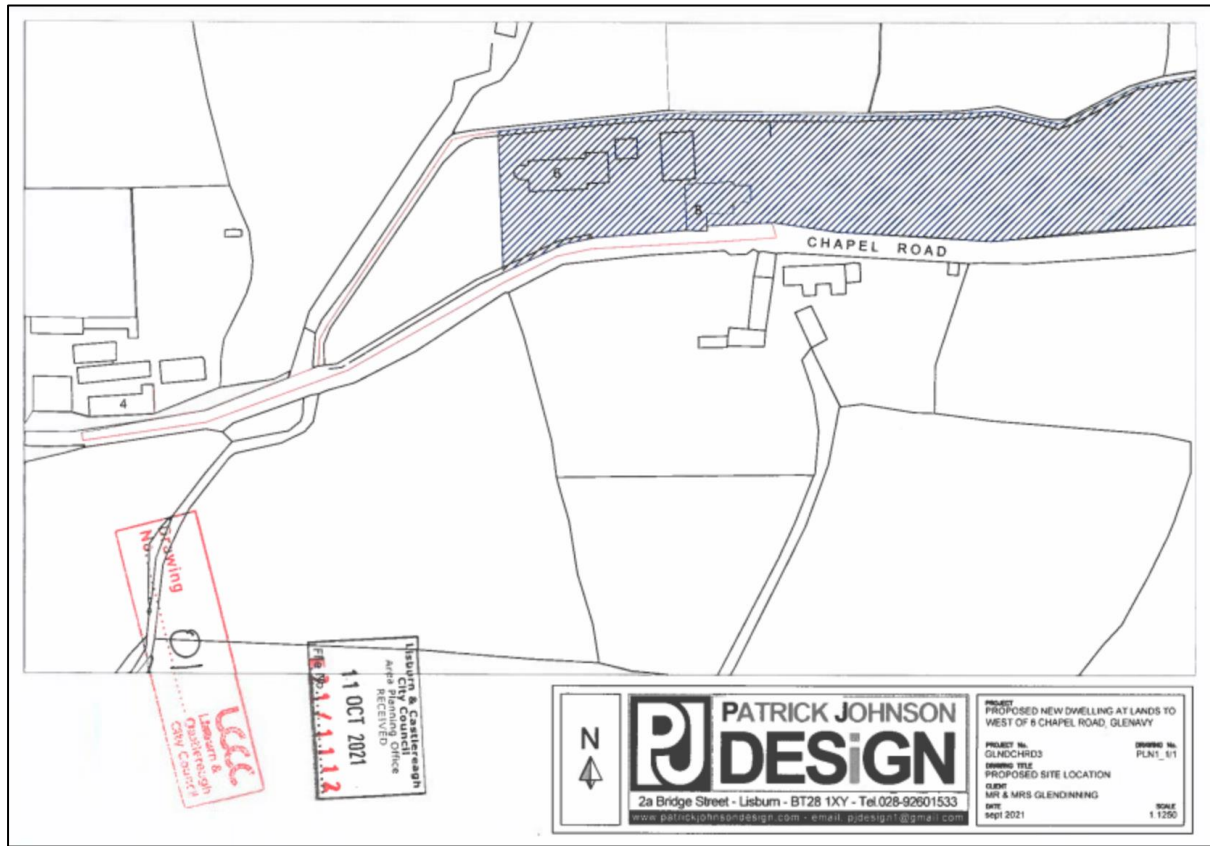
82. It is recommended that planning permission is refused.

## Refusal Reasons

83. The following refusal reasons are recommended;

- The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- The proposal is contrary to the SPPS and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that;
  - the proposed dwelling is not located within an existing cluster of development which lies outside of a farm and consists of 4 or more buildings of which at least three are dwellings;
  - the proposed dwelling is not part of a cluster that appears as a visual entity in the local landscape.
  - the proposed dwelling is not within a cluster of development that is associated with a focal point such as a social/community building/facility.
  - the identified site cannot provide a suitable degree of enclosure and it is not bounded on at least two sides with other development within a cluster of development.
  - the development of the site cannot be absorbed into a cluster of development as it is not located within one, through rounding off and consolidation as it would if permitted, visually intrude into the open countryside.
- The proposal is contrary to the SPPS and Policies CTY1 and CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is not considered to be a small gap in an otherwise substantial and continuously built up frontage, and as a result the proposal will add to a ribbon of development along the Chapel Road.
- The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted create a sub-urban style build-up of development and add to a ribbon of development along Chapel Road and would therefore result in a detrimental change to the rural character of the countryside.

### Site Location Plan – LA05/2021/1112/O



## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	19 June 2023
Committee Interest	Local Application (Called In)
Application Reference	LA05/2022/0747/RM
Date of Application	10 August 22
District Electoral Area	Downshire East
Proposal Description	Proposed infill of two dwellings and garages
Location	Between 15 and 21 Church Road, Lisburn, BT27 6UP
Representations	One
Case Officer	Brenda Ferguson
Recommendation	<b>Approval</b>

### Summary of Recommendation

1. This application is categorised as a local application. It is referred to the Committee for determination in accordance with the Protocol for the Operation of the Committee 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 consists of a portion of a large agricultural field sited between 15 and 21 Church Road, Boardmills.
6. The field slopes up steeply to the North West and the boundaries to the east and west consist of post and wire fencing and hedging. The northern boundary is undefined.

### Surroundings

7. A two storey farmhouse, detached double garage and shed lie to the west of the site and a two storey dwelling and detached garage lie to the east.
8. The site is located within a rural area. Church Road itself is largely comprised of dispersed rural dwellings and agricultural land.

## Proposed Development

9. The application is for the approval of reserved matters for two dwellings and garages.

## Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2018/1260/O	Proposed infill of 2 No dwellings and garages at lands between 15 & 21 Church Road, Lisburn, BT27 6UP - under PPS21 CTY8- where the site forms a gap in a built-up frontage	Between 15 & 21 Church Road Lisburn BT27 6UP	Permission granted 12/08/2019

## Consultations

11. The following consultations were carried out:

Consultee	Response
DfI Roads	No objection
LCCC EHO	No objection
NI Water	No objection

## Representations

12. One letter of objection has been received from the occupier of 20 Church Road. The issues raised relate to disruption during construction works and the blocking of the view by two large houses.

## Planning Policy Context

### Relevant Policy and Guidance Documents

13. The relevant policy documents that relate to the matters reserved in the outline planning application are:
- The Strategic Planning Policy Statement (SPPS), published in September 2015,
  - Planning Policy Statement 3 – Access, Movement and Parking.
  - 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

### Regional Policy Context

15. 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.*
16. The local development plan is at Stage 1, and there is no Stage 2 draft. No weight can be given to the emerging plan.
17. 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.

18. At paragraph 4.26 of the SPPS states that:

*Design is an important material consideration in the assessment of all proposals and good design should be the aim of all those involved in the planning process and must be encouraged across the region...*

19. At paragraph 4.27 of the SPPS states that:

*Where the design of a proposed development is consistent with relevant LPD policies and/or supplementary design guidance, planning authorities should not refuse permission on design grounds, unless there are exceptional circumstances. Planning authorities will reject poor designs, particularly proposals that are inappropriate to their context, including schemes that are clearly out of scale, or incompatible with their surroundings, or not in accordance with the LDP or local design guidance.*

20. With regards to proposals for development in the countryside specifically, paragraph 4.30 of the SPPS states that:

*all proposals must be sited and designed to integrate sympathetically with their surroundings, including the natural topography, and to meet other planning policy and environmental considerations.*

21. Paragraph 6.70 akin to paragraph 4.30 states that:

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

22. Paragraph 6.77 of the SPPS states:

*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.*

23. 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

24. 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.*

25. This guidance notes at paragraph 4.4.0 that:

*Introducing a new building to an existing cluster (CTY 2a) or ribbon **CTY 8** will require care in terms of how well it fits in with its neighbouring buildings in terms of scale, form, proportions and overall character.*

26. Section 4: Visually Integrated of Building on Tradition offers further guidance on what is good design in terms of siting, layout, scale, massing and finish. This section also provides the further guidance regarding infill and design which are set out at page 74 and include the following criteria:

- *Follow the established grain of the neighbouring buildings*
- *Allow for clear definition of front and back, public and private sides to the plot which help address overlooking issues*
- *Design in scale and form with surrounding buildings*
- *Retain existing boundaries where possible and construct new boundaries using native hedgerows and natural stone walls to assist integration and local biodiversity*
- *Use a palette of materials that reflect the local area*

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

27. 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.
28. There is no conflict between the SPPS and the retained policies in terms of the matters reserved at the outline planning application stage and the detail of this

proposal is considered against the requirements of the following policies and the related guidance in Building on Tradition described as described above.

29. In respect of the matters reserved in terms of the design 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.*

30. 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.*

31. Also policy CTY 14 – Rural Character in terms of the design 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.*

32. 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.*

33. A septic tank and soakaway is proposed and a site for this is indicated on the detailed plans. Policy CTY 16 - Development Relying on Non-Mains Sewerage is considered and 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.*

34. 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.*

35. 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.*

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

36. 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.

37. 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

38. 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

39. This is an application for approval of reserved matters for a dwelling at a site that was previously assessed and accepted in principle to be an infill opportunity.
40. The part of policy CTY 8 that states 'provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements' and the detail of these matters were reserved by condition.
41. How the design has been developed to respect the existing development pattern is explained under the relevant sections below.
42. The reasons why planning permission for a dwelling was granted at this location are not revisited as it been previously accepted that this is a small gap within an otherwise and substantial and continuously built up frontage.
43. An application for approval of reserved matters is made in accordance with the conditions of the outline for the reasons detailed in the following paragraphs.
44. An application for approval of reserved matters is made in accordance with the conditions of the outline for the reasons detailed in the following 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.**
45. This application for approval of reserved matters was made to the Council on 03 August 2022 which was within three years of the date of the grant of outline planning permission and before the expiry date for submission of an application

for approval of reserved matters which was 12 August 2022. This condition is considered to be met.

**Condition 2 - Approval of the details of the siting, design and external appearance of the buildings, means of access and landscaping (RM) shall be obtained before any development is commenced.**

46. The matters reserved in this condition must be considered against the planning policy context and the detailed siting and design of a building must have regard to the site context and surroundings and to other planning and environmental considerations such as noise. Each of the matters reserved by this condition are dealt with below:

Siting

47. In terms of siting the proposed buildings are shown in the same position as indicated on the approved site block plan (drawing 02/A) of the outline permission.
48. Taking this into account and consistent with what was agreed at outline stage, it is considered that the proposed siting and orientation of the dwellings and garages respects the pattern of development along the road frontage.
49. It is also considered that the buildings will not be a prominent feature within the local landscape. The established mature hedgerows either side of the site provide a suitable degree of enclosure to integrate the new development. This part of condition 2 is considered to be met in full for the reasons outlined above and the siting is considered to satisfy the tests set out in policies CTY 13 and 14 and guidance set out in Building on Tradition.

Design

50. Both dwellings will have a rectangular shaped footprint and a single storey side or rear projection.
51. The dwellings are two storey in size and the ridge height measures as 8.25 metres above finished floor level with a pitched roof. Windows have a vertical emphasis typically of most rural houses in the open countryside.
52. Two chimneys are positioned along the ridge line of the dwellings which again of simple rural vernacular design.
53. The proposed main part of the dwellings have a frontage of 13.5 metres with a 4.3 metres single storey side (site A) or rear (site B) extension.
54. The garages are detached to the rear and both have a 5.7 metres ridge height.

55. The proposed dwellings and garages and associated works will not be unduly prominent in the landscape and the design of the buildings are appropriate to the site and the surrounding area. The levels are considered so the new development blends with the landform. There will be no adverse impact in relation to rural character.
56. The ground rises towards the back of the site. The proposed ground levels of both the dwellings and garages are appropriate for the site and the need for excessive infilling or increase in levels are avoided. The rising ground also provides backdrop to the proposed buildings so the development blends with the landform.
57. In terms of ancillary works, the proposed shared access arrangements leading off the Church Road are designed so that the, hard surfacing and parking areas will not cause detrimental harm to the rural area.
58. It is considered that the design of the dwellings as proposed in terms of their scale, massing, detailing, layout/siting and proposed finishes would be visually acceptable within the site, consistent with tests set out in policies CTY 13 and 14 and guidance set out in Building on Tradition.

#### External Appearance

59. The proposed finishes include smooth sand-cement render left for painting and white uPVC windows. The roofs tiles are to be blue/black slate. The garages are to be finished with the same materials.
60. The external appearance of the dwellings and garages are considered to be satisfy the tests set out in policies CTY 13 and 14 and guidance set out in Building on Tradition as simple traditional materials typical of the houses in the local area in this part of the open countryside are used.

#### Means of Access

61. The detail submitted with the application demonstrates that a new shared access is to be constructed to Church Road which is not a Protected Route.
62. Drawing 02 provides detail of visibility splays of 2.4 x 79 metres to the Eastern and Western side of the proposed access. The detail as submitted has been considered by DfI Roads and the Council has no reason to disagree with the advice of the consultee.
63. The proposed means of access is designed in accordance with the recommended visibility splays and to a safe standard as per DCAN 15. No adverse traffic impact is anticipated based on the scale of development proposed.

### Landscaping

64. Landscaping details are provided on drawing 04. Consistent with condition 4, the landscape drawing confirms that existing planting is to be retained as annotated.
65. Additional planting is also proposed in the form of Mountain Ash or Rowan trees and Wild Cherry within the respective sites. Details of girth height and clear stem is given along with the length of hedge planting.
66. An annotation also notes that the existing hedge removed to the front of the site will be replaced behind the sight splays.
67. For the reasons outlined above, condition 2 is considered to be met in full.

**Condition 3 – 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, the 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.**

68. A site block plan showing the existing and proposed levels (all to scale) has been submitted as part of the application. No retaining walls are identified. The drawing is accurate and should be complied with at the construction stage of the project.

**Condition 4 – The existing natural screenings of the site, shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.**

69. A landscaping plan has been submitted with the application. This plan [drawing 04] confirms by way of annotation that the existing boundaries to the east and west are to be retained. Condition 4 has been met.

**Condition 5 – No other development hereby permitted shall be commenced until the vehicular access has been constructed generally in accordance with Drawing 02/A, bearing the date stamp 28 March 2019.**

70. Detail submitted with the application [drawing 02] provides details of the shared access arrangements including detail of the access width and visibility splays.
71. DfI Roads have offered no objection to the proposal and as such, it is considered that this condition is capable of being met for the reasons previously outlined above.

**Condition 6 - 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.**

72. Detail submitted with the application [drawing 02] includes an annotation for vehicular parking and turning area. Whilst spaces are not marked, the area shown is considered to be sufficient to allow for a minimum of 3 spaces for parking of private cars. This condition is capable of being met before the dwelling is occupied.

**Condition 7 - Any existing street furniture or landscaping obscuring or located within the proposed carriageway, sight visibility splays or access shall, after obtaining permission from the appropriate authority, be removed, relocated or adjusted at the applicant's expense.**

73. There are no existing obstacles identified in the submitted plans capable of obscuring the visibility splays and that need to be removed. As such, this condition is capable of being met at the construction stage of the project.

#### Other Matters

74. The position of the proposed treatment tanks and soakaways towards the front of the site are shown on the proposed site layout [drawing 02].
75. Advice from Environmental Health offers no objection. Based on a review of this detail, it is accepted that the siting of the proposed tanks and soakaways within the site will not create or add to a pollution problem consistent with the requirements of policy CTY 16.

#### **Consideration of Representation**

76. Consideration of the issue raised by way of third party representation is considered in the assessment of the application.
77. As demonstrated, the siting of the proposed dwellings is considered to be acceptable insofar as the new buildings follow the established pattern of development along the road frontage. The nature and scale of the buildings take account of the closest buildings either side and the distance of separation is considered to be acceptable and the new development will have an adverse impact on the amenity of neighbouring properties by reason of dominance.

## Conclusions

78. For the reasons demonstrated above, 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.
79. 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.
80. 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

81. It is recommended approval of the matters reserved is agreed.

## Conditions

82. The following conditions are recommended:
  - The development to which this approval relates must be begun by whichever is the later of the following dates:-
    - i. The expiration of a period of 5 years from the grant of outline planning permission; or
    - ii. 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.
  - The vehicular access, including any visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 02, bearing the Council date stamp 03 August 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.

- 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.

- No dwelling shall be occupied until hard surfaced areas have been constructed in accordance with approved drawing 02, bearing date stamp 03 August 2022 to provide adequate facilities for parking and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

Reason: To ensure that adequate provision has been made for parking.

- All hard and soft landscape works shall be carried out in accordance with drawing 04 bearing the Council date stamp of 10 August 2022. The works shall be carried out during the first available planting season prior to the occupation of any part of the development.

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

- 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.

- No retained tree shall be cut down, uprooted or destroyed or have its roots damaged within the root protection area nor shall arboriculture work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written consent of the Council.

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



**Site Location Plan – LA05/2022/0747/RM**





## Planning Committee

19 June 2023

Report from:

Head of Planning and Capital Development

### Item for Noting

**TITLE:** Item 2 – Statutory Performance Indicators – March 2023 and Year End

**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 March 2023 and year end.
2. Members should note this data is unvalidated 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. The performance against the statutory target for local applications for March 2023 was 48.5 weeks with performance year end noted to be 32.6 weeks. The main contributing factors in terms of the Unit's ability to perform against the local target was the introduction of the new planning portal and the backlog of applications arising from legal challenges in the middle of last year. The focus remains on progressing older applications and more applications are now being issued than coming into the system which should see improved performance in the next quarter.
4. Performance in relation to major applications for March 2023 was 62.2 weeks with performance year end noted to be 87.4 weeks. This is an improvement in the overall timescale for dealing with major applications from the previous year (which was approximately 122 weeks) and a reflection on the fact that fewer applications of this type require Section 76 planning agreements which tend to add considerable delay to the processing time. The same number of applications received in the previous twelve months were decided. The importance of this type of application to the economy of the Council area is recognised and continuous improvement in terms of how applications are prioritised remains under review.

**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 2 – Statutory Performance Indicators – March 2023

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

No

**If Yes, please insert date:**

Statutory targets monthly update - March 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	78	18.0	47.4%	23			
May	0	-	0.0	0.0%	73	70	23.8	35.7%	26			
June	1	-	0.0	0.0%	75	74	29.6	36.5%	15			
July	0	-	0.0	0.0%	51	63	33.4	25.4%	27			
August	3	-	0.0	0.0%	68	67	39.8	11.9%	31			
September	0	-	0.0	0.0%	72	70	35.6	24.3%	24			
October	2	4	177.4	0.0%	80	84	23.6	26.2%	22			
November	0	1	33.0	0.0%	64	63	38.6	23.8%	17			
December	2	-	0.0	0.0%	56	12	67.0	25.0%	17			
January	1	1	24.2	100.0%	78	65	27.4	27.7%	23			
February	0	1	104.0	0.0%	52	64	35.9	10.9%	21			
March	2	2	62.2	0.0%	68	69	48.5	10.3%	28			
<b>Year to date</b>	<b>11</b>	<b>10</b>	<b>87.4</b>	<b>10.0%</b>	<b>810</b>	<b>779</b>	<b>32.6</b>	<b>26.0%</b>	<b>274</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 information is not currently available



## Planning Committee

19 June 2023

**Report from:**

**Head of Planning and Capital Development**

### Item for Noting

**TITLE:** **Item 3 – Appeal Decision – LA05/2017/0772/F**

**Background and Key Issues:**

**Background**

1. An application for the retention of a replacement agricultural building to the rear of 36, 36a and 38 Halftown Road, Lisburn was refused planning permission on August 2020.
2. An appeal was lodged with the Planning Appeals Commission before the expiration of four months from the date of the decision as detailed above. The procedure followed in this instance was written representations with a Commissioner site visit which took place on 29 March 2023.
3. The main issues in the appeal were whether the proposed development was acceptable in principle in the open countryside; and its impact on visual amenity and rural character of the area.
4. A decision received on 18 April 2023 confirmed that the appeal was dismissed and the decision that planning permission be refused is upheld.

**Key Issues**

1. The Commission confirmed that there was no persuasive evidence of active farming over the period required by the policy. Furthermore it was also considered that the appeal

building as constructed and used was not necessary for the efficient use of an agricultural holding.

- 2. The existing building was also considered by the Commission to cumulatively impact on the character of the area and that the development resulted in a suburban build-up of development.
- 3. There is no specific learning for the Council arising out of this decision. As the appeal is dismissed and the building is currently in situ this matter is now referred to the planning enforcement team for action. .

**Recommendation:**

It is recommended that the Committee notes the report and decision of the Commission in respect of this appeal.

**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> Screen out without mitigation	N/A	<b>Option 2</b> Screen out with mitigation	N/A	<b>Option 3</b> Screen in for a full EQIA	N/A
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**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 – Appeal Decision – LA05/2017/0772/F**

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

No

**If Yes, please insert date:**





# Appeal Decision

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<b>Appeal Reference:</b>	2020/A0105
<b>Appeal by:</b>	Mr J Tate
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Retention of a replacement agricultural building (amended scheme)
<b>Location:</b>	To the rear of 36, 36a and 38 Halftown Road, Lisburn
<b>Planning Authority:</b>	Lisburn and Castlereagh City Council
<b>Application Reference:</b>	LA05/2017/0772/F
<b>Procedure:</b>	Written representations and Commissioner's site visit on 29 March 2023
<b>Decision by:</b>	Commissioner McShane, dated 18 April 2023.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are:
  - whether the appeal development is acceptable in principle; and
  - its impact on visual amenity and rural character.
3. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. As the Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful by the Court of Appeal in May 2017, the Lisburn Area Plan 2001 (LAP) operates as the LDP for the area. The draft Belfast Metropolitan Area Plan (dBMAP) remains a material consideration. The appeal site is located outside any designated settlement development limit identified in the plans. There are no plan policies relevant to this proposal.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) is material to all decisions on individual planning applications and appeals. Paragraph 6.73 of the SPPS sets out the strategic policy for non-residential development in the countryside that should be considered in the determination of planning applications.
5. Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) is applicable to all planning applications for development located in the countryside. The SPPS identifies PPS 21 as a retained policy document.

6. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Planning permission will be granted for non-residential development in the countryside in specific circumstances.
7. The Appellant argues that the building, already in situ, constitutes agricultural development in accordance with Policy CTY 12 of PPS 21. The appeal building (approximately 140sqm) comprises a single storey, pitched roof building, which has a rectangular footprint. The roof is finished in black/blue concrete tile; the walls are currently block, Drawing No.02A indicates that these are to be rendered and left for painting; the 15 double glazed windows, which are equally spaced and have a vertical emphasis, are brown uPVC; as is the pedestrian door. Gutters, downpipes and fascias are also to be brown uPVC. There is a domestic style garage door in the western elevation of the building (3.5m wide by 2m high).
8. The Appellant refers to the appeal development as a replacement agricultural building; however, the historic block and metal barn like structure located on the site was demolished prior to the submission of an application to erect the appeal building. The appeal development is assessed as a new agricultural building.
9. The starting point for making an assessment under Policy CTY 12 is establishing whether there is an active and established agricultural holding. Paragraph 5.56 of PPS 21 advises that for the purposes of this policy, the determining criteria for an active and established business will be that set out under Policy CTY 10. Applicants are required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period.
10. In the first instance, DARD business ID number 654522 was provided to the Council to prove there is an active and established agricultural holding. DAERA confirmed that the business ID has been in existence for 6 plus years but pointed out that Single Farm Payments had not been claimed. The latter is not fatal to the proposal, providing other evidence to prove active farming over the required period is submitted.
11. Significantly, however, the DARD business ID number submitted on the P1C form (ID 654522) did not match the ID number on the farm maps provided (ID 609988). During the processing of the application, the Appellant submitted a revised P1C form with an amended the DARD business ID number. The amended ID number 609988 matches that on the farm maps submitted.
12. The holding associated with DARD business ID number 609988 has been established for more than 6 years and is active; subsidies were claimed during the required 6-year period. However, DAERA confirmed that the appeal site does not constitute part of that farm business, the main holding of which is located at Aghafad Road, Clogher, Co.Tyrone.
13. The Appellant argues that there has been an established farmyard and farm buildings at the appeal site for over 60 years. The farm, consisting of a farm dwelling fronting Halftown Road, since replaced with two dwellings, and various outbuildings and a large barn, was purchased by him more than 10 years ago. However, Policy CTY 12 requires that the farm business is currently active and has been established for at least 6 years.

14. In his Statement of Case the Appellant, somewhat surprisingly, having amended the farm business ID number on the P1C form from ID number 654522 to ID number 609988 during the processing of the application, reverts to rely on the former. A reference is made to the Appellant's "active farm business located less than 2 miles from the appeal site". Photographs of agricultural buildings are provided, however no farm maps or inventory of buildings on the farm holding has been provided.
15. A herd number is provided, and a passing reference is made to 40 cows. Letters from the owners of the two fields adjacent to the appeal site claim that the Appellant currently rents the land on a yearly lease. However, no persuasive evidence of active farming over the required period is provided.
16. As outlined above, there are numerous inconsistencies in the information provided to prove the farm business is currently active and has been active over the required period. Consequently, I have not been persuaded that there is an active agricultural holding. This is fatal to the appeal.
17. The evidence indicates that the appeal building, initially used for the storage of stock associated with "Look Crafty", a wedding, events and occasions business, is currently used by the Appellant for the storage of vintage farm machinery. The Appellant had been renting a unit to store his vintage tractors but using the appeal building is more cost effective. In this context, I am not persuaded that the appeal building would be necessary for the efficient use of an agricultural holding.
18. Furthermore, where a new building is proposed, three additional bullet points listed in Policy CTY 12 are required to be met. In the absence of any scheme maps associated with the DARD business ID 654522 or an inventory of buildings on the farm holding, it is impossible to determine whether there are any suitable existing buildings on the holding that could be used or a site available at another group of buildings on the holding.
19. Policy CTY 12 goes on to state that exceptionally, consideration may be given to an alternative site away from existing farm buildings, provided there are no other sites available, *and* (my emphasis) where it is essential for the efficient functioning of the business; or there are demonstrable health and safety reasons. No evidence was submitted in terms of business or health and safety reasons to justify the siting of the building.
20. There is no support for the appeal building in Policy CTY 12 of PPS 21. Accordingly, the Council has sustained its second reason for refusal. The absence of objections to the appeal building and letters of support do not justify allowing a development that is contrary to policy.
21. Policy CTY 1 goes on to state that other types of development will only be permitted where there are overriding reasons why that development is essential. In the absence of any persuasive information in this respect, the appeal development does not comply with Policy CTY 1.
22. Policy CTY 13 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. Seven instances are listed where a new building will be unacceptable. The parties dispute Criterion (e): whether the design of the building is appropriate for the site and its locality.

23. From Halftown Road, views of the appeal building are limited by a row of roadside dwellings. The Council's objection focuses on the design of the building, which it considers to be akin to a dwelling, being inappropriate for its proposed use for agriculture. The focus of Policy CTY 13, however is on the design of the building in relation to the site and its locality. I have not been persuaded that the scale, form, materials or massing of the building, which is similar to the adjacent dwellings, would have a negative impact on the landscape, especially in the context of limited views. In these circumstances, the Council has failed to sustain its second reason for refusal based upon Policy CTY 13 of PPS 21.
24. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Five criteria are listed wherein a new building will be unacceptable. The parties dispute whether the proposed development would add to the build-up of development, respect the traditional pattern of development or further erode the rural character of the area.
25. The building stands to the rear of a row of roadside dwellings. Notwithstanding this, when travelling south along Halftown Road, there are views of the building's tile pitch roof and gable wall. The additional incident of development, when taken cumulatively with the existing roadside dwellings and their ancillary features (Nos. 34, 36, 36a, 38 and 40), results in a suburban build-up that would be detrimental and further erode the character of this rural area, which is already under significant pressure. The Council has sustained its third reason for refusal based upon Policy CTY 14 of PPS 21.
26. The Council has sustained its first and third reasons for refusal based upon Policy CTY 12 and Policy CTY 14 of PPS 21; accordingly, the appeal must fail.

This decision is based on the following drawings:-

- LPA Drwg No.01A: Site Location map (Scale 1:1250)
- LPA Drwg No.02A: Elevations (Scale 1:100)
- LPA Drwg No.03A: Site Layout (Scale 1:500)
- LPA Drwg No.05A: Plan View and Section (Scale 1:100)
- LPA Drwg No.06A: Plan and Elevations of shed replaced (Scale 1:100)

**COMMISSIONER MCSHANE**

**List of Documents**

Planning Authority:-	“LPA 1” Statement of Case and Appendices (Lisburn and Castlereagh City Council)
Appellant:-	“APP 1” Statement of Case and Appendices “APP 2” Rebuttal Statement and Appendices (PJ Design Ltd)



## Planning Committee

19 June 2023

Report from:

Head of Planning and Capital Development

### Item for Noting

TITLE: Item 4 – Appeal Decision – LA05/2020/0613/F

Background and Key Issues:

#### Background

1. An application for a farm dwelling on lands to the south of 48 Garlandstown Road, Glenavy, Crumlin was refused planning permission on 21 April 2021.
2. An appeal was lodged with the Planning Appeals Commission within the required four months from the date of the decision. The procedure followed in this instance was written representations with a Commissioner site visit which took place on 05 April 2023.
3. The main issue in the appeal was whether the proposed development was acceptable in principle in the countryside.
4. A decision received on 26 May 2023 indicated that the appeal was dismissed and planning permission refused.

#### Key Issues

1. The Commission's consideration as to whether the proposal is acceptable in principle as an active and established farm business is set out at paragraphs 9 – 11 of their report.

2. Whilst the Commissioner accepts that the appellant has a farm business, the report notes that this business was only established in September 2019 which is less than the required six years required to justify a new dwelling on the holding.
3. Furthermore, the Commissioner notes that the appellant had not provided any other evidence in support of their appeal to demonstrate activity on the holding for more than the requisite six years.
4. There is limited learning in this appeal decision for the Council other than it reaffirms the policy position taken by the officers in reaching this decision (delegated) which was clear and supported by good evidence.

**Recommendation:**

It is recommended that the Committee notes the report and decision of the Commission in respect of this appeal.

**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> Screen out without mitigation	N/A	<b>Option 2</b> Screen out with mitigation	N/A	<b>Option 3</b> Screen in for a full EQIA	N/A
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**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?

Has a Rural Needs Impact Assessment (RNIA) template been completed?

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

**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:**

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

**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>	2021/A0023
<b>Appeals by:</b>	Mr Derek Johnston
<b>Appeals against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Site for detached farm dwelling
<b>Location:</b>	Lands adjacent to and south of 48 Garlandstown Road, Glenavy, Crumlin
<b>Planning Authority:</b>	Lisburn and Castlereagh City Council
<b>Application Reference:</b>	LA05/2020/0613/F
<b>Procedure:</b>	Written representations with Commissioner's site visit on 5 <sup>th</sup> April 2023
<b>Decisions by:</b>	Commissioner Kevin Gillespie, dated 26 <sup>th</sup> May 2023

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issue in this appeal is whether the proposal would be acceptable in principle in the countryside.
3. Section 45(1) of the Planning Act (NI) 2011 (the Act) requires the Commission, in dealing with an appeal, to have regard 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 states that where regard is to be had to the LDP, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.
4. The adopted Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful by the Court of Appeal on 18th May 2017. The Lisburn Area Plan 2001 (LAP) therefore operates as the LDP for the area wherein the appeal site is located with the draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, remaining a material consideration. In the LAP, the appeal site is located in the countryside and outside of any settlement limit, green belt or countryside policy area defined in the plan. In dBMAP, the site lies in the Green Belt. As the rural policies in both plans are now outdated, having been overtaken by a succession of regional policies for rural development, no determining weight can be attached to them. There are no other provisions in the plans that are material to the determination of the appeal.
5. 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. As no Plan Strategy has been adopted for the Lisburn and Castlereagh City Council area, both the SPPS and other regional policies apply. During the transitional period, the SPPS retains certain existing Planning Policy Statements including Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). There is no conflict between the provisions of the SPPS and the retained policies on the issues raised in this appeal. In line with the transitional arrangements, the appeal should therefore be determined in accordance with retained policy within PPS 21.

6. Policy CTY 1 of PPS 21 states that there are a range of types of development which are acceptable in principle in the countryside and that will contribute to the aims of sustainable development including a dwelling on a farm in accordance with Policy CTY 10 of PPS 21. It follows that if the development satisfies Policy CTY 10, it will also satisfy Policy CTY 1 of PPS 21.
7. The irregular shaped appeal site which is cut out of a wider agricultural field comprises a large area of flattened rubble and a number of agricultural buildings positioned within a yard. It is located on the eastern side of Garlandstown Road. It is generally flat with access taken from a lane that serves the yard containing the above agricultural buildings. An agricultural gate positioned on this lane has the number 50 affixed to it. A post and mesh fence delineates the area of flattened rubble. The northern boundary of the appeal site is defined by mature trees and hedging. The southern boundary is undefined. The eastern boundary is part defined by mature trees and hedging and part undefined. The western boundary is part defined by one of the above agricultural buildings and part defined by mature trees and hedging.
8. Policy CTY 10 of PPS 21 states that planning permission will be granted for a dwelling house on a farm subject to several criteria. The Council's sole objection related to criterion (a) of the policy in so far as the Council considered that the appellant's farm business had not been active and established for at least 6 years.
9. The appellant is applying for a farm dwelling in connection with Farm Business ID 664716 which was allocated to him on 23<sup>rd</sup> September 2019 by the Department of Agriculture, Environment and Rural Affairs (DAERA). Prior to this, the appellant was listed on a different Farm Business ID 620155 which was registered to Mrs M.E and Mr J.D Johnston. However, for personal reasons, he was subsequently removed from this farm business. Farm Business ID 664716 comprises a holding of some 16.69 hectares of land as shown on the appellant's farm map. From the evidence, I note that it has only claimed payments through the Basic Payment Scheme or Agri Environment scheme in 2020.
10. Paragraph 5.38 of the justification and amplification text to Policy CTY 10 states that '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'.
11. It is indisputable that the appellant holds farm business ID 664716. However, as the farm business was only established in September 2019, this time period is less than the required 6 years. Additionally, the appellant has not provided any other

evidence to prove active farming. For these reasons, the policy requirement is not met.

12. For the reasons given, the farm business does not meet criterion (a) of Policy CTY 10 of PPS 21. Furthermore, there are no overriding reasons provided to demonstrate why the appeal proposal is essential. Policy CTY 1 of PPS 21 is therefore not met.
13. The remaining third parties' concerns are matters for the Council and are not determining in this appeal.
14. The Council has sustained its sole reason for refusal. The appeal must therefore fail.

This decision is based on the following drawing numbers:

<b>Drawing No.</b>	<b>Title</b>	<b>Scale</b>	<b>Received by the Council</b>
PLNG-1_1/6	Site Location Map	1:2500	7 <sup>th</sup> August 2020
PLNG-3_2/6	Proposed Site Block Plan - Overall	1:500	5 <sup>th</sup> March 2021
PLNG-3_3/6	Proposed Site Block Plan - Sight Splays	1:250	5 <sup>th</sup> March 2021
PLNG-3_4/6	Site Block Plan - Landscaping	1:250	5 <sup>th</sup> March 2021
PLNG-1_5/6	Proposed Sections & Elevations	1:100	7 <sup>th</sup> August 2020
PLNG-1_6/6	Proposed Floor Plans	1:50	7 <sup>th</sup> August 2020
STTM-2_1/1	Proposed Site Block Plan - Justification	NTS	5 <sup>th</sup> March 2021

**COMMISSIONER KEVIN GILLESPIE**

**List of Documents****Planning Authority:-****“A1” Lisburn and Castlereagh City Council -  
Statement of Case****“A2” Lisburn and Castlereagh City Council -  
Rebuttal Statement****Third Parties:-****“B1” Mrs M.E Johnston  
Objection****“B2” Mrs M.E Johnston  
Objection****“B3” Mr A Johnston  
Objection**



## Planning Committee

19 June 2023

Report from:

Head of Planning and Capital Development

### Item for Noting

**TITLE:** Item 5 - Notification by telecommunication operator(s) of intention to utilise permitted development rights

**Background and Key Issues:**

#### Background

1. The Council is notified by Openreach, BlueClarity, Virgin Media and EE Ltd & Hutchinson 3Gof their intention to utilise permitted development rights at a number of locations within the Council area to install communications apparatus.
2. The installations consist of the erection of poles and an upgrade to 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 notifications advise the Council of the location(s) 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 (**see Appendix**). The content of these recent notifications are provided and attached to this report.
2. No comment is provided on the requirement for planning permission for the equipment and sites listed. The letters are also referred to the planning enforcement section of the Council. They will write separately to the operator(s) should it be considered that the

requirements of the Regulations cannot be met at any of the locations specified by the operators.

**Recommendation:**

It is recommended that Members note the detail of each of the notifications 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> Screen out without mitigation	N/A	<b>Option 2</b> Screen out with mitigation	N/A	<b>Option 3</b> Screen in for a full EQIA	N/A
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**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
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**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 5 –** 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 utilize Permitted Development Rights June 2023 Planning Committee

	Applicant/Agents	Operator	Location	Summary of details	Date received
1	Openreach	Openreach	3 Soldierstown Crescent, Aghalee	Erection of a pole	20/03/2023
2	Tiernan Walsh Blue Clarity	Tiernan Walsh Blue Clarity	Newtownbreda South, Saintfield Road	Replacement of existing telecommunications equipment	22/03/2023
3	Openreach	Openreach	32, Hillsborough Road, Dromara, County Down, Dromore, BT25 2BL	Erection of A pole	28/03/2023
4	Virgin Media/O2	Virgin Media/O2	480 Lisburn Road	new VM02 cabinets	29/03/2023
5	Openreach	Openreach	44 Scroggy Road, Glenavy, Crumlin, BT29 4NE	Erection of a pole	30/03/2023
6	Openreach	Openreach	9, Myrtledene Road, County Antrim, Belfast, BT8 6GQ	Install fixed line broadband electronic communications apparatus under Regulation 5, detailed as telegraph pole.	04/04/2023
7	WHP Telecoms Ltd	EE Ltd and Hutchinson 3G	Parkdale House, Off Ballybog Road, Dunmurry	Installation of 6 antenna, 3 pole support structures, 4 dishes and equipment Cabinets	26/04/2023
8	Openreach	Openreach	White Mountain Road, Stoneyford	Erection of 5 poles	28/04/2023
9	Openreach	Openreach	Hannahstown Road	Erection of 11 poles	03/05/2023
10	Openreach	Openreach	3, Breda Avenue, County Antrim, Belfast, BT8 6JS	Erection of 1 pole	24/05/2023



11	Openreach	Openreach	94b, Halftown Road, Lisburn, BT27 5RF	Erection of 4 Poles	24/05/2023
12	Openreach	Openreach	47, Gravelhill Road, County Antrim, Lisburn, BT27 5RW	Erection of 1 pole	26/05/2023



## Planning Committee

19 June 2023

Report from:

Head of Planning and Capital Development

### Item for Noting

TITLE: Item 6 – Update on Local Development Plan

Background and Key Issues:

#### Background

1. The Council's Local Development Plan, draft Plan Strategy (dPS) was subject to Independent Examination (IE) by the Planning Appeals Commission between April - May 2022.
2. In accordance with regulation 24(1) of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015, the Commission's recommendation report following the IE was released to the Department for Infrastructure (DfI) on the 30<sup>th</sup> November 2022.
3. The guidance in Development Plan Practice Note 11 [Receipt of Independent Examination Report and Adoption of a Development Plan Document, February 2023] advises under paragraph 5.6 that the timeframe for consideration of the Commission's report is not prescribed although it is indicated DfI's intention that its consideration should take approximately 12 weeks.
4. DfI Planning has not met this indicative timescale for the reasons outlined in the attached letter (**see Appendix**). DfI officials have indicated that consideration of the Independent Examination Report and will move to a decision point shortly. In the interim a progress meeting is agreed for 14 June 2023.

**Key Issues**

1. Upon receipt of the report, and as directed by DfI, a 'fact-check' on a number of matters arising from the Commission's recommendation will be undertaken.
2. The primary purpose of fact checking is to enable the Council to highlight any factual errors or inconsistencies in the Commission's report, essentially a proof read. DfI will allow the Council a two week period to carry out this exercise and to respond.
3. Following the fact checking exercise, where the direction issued is to adopt the DPD, either as originally prepared or with modifications, under Section 12(4) this must be by resolution of the full council and must be done as soon as reasonably practicable after the receipt of the Department's direction.
4. Should the report be received by the end of June 2023 it is anticipated that the earliest date the Plan Strategy could be adopted is October 2023. The resources required to conclude the fact check have been allocated and the timescales for drafting the final Plan Strategy document takes account of the summer recess and the need to fully brief the Council.
5. Following this process DfI will issue an adoption direction to Council in accordance with Section 12(1) of the Planning Act (NI) 2011.

**Recommendation:**

Members are asked to note the Local Development Plan Team will undertake the requested fact-checking and will respond to DfI within the two week timeframe from receipt of DfI's instruction.

Members are further asked to note that this exercise will be issued to the Council in confidence, is not for publication, nor shall it give rise to further debate outside of the Independent Examination process.

**Finance and Resource Implications:**

No additional finance or resources are identified. Legal advice may be required but this cannot be considered until the detail of the report is made available to the Council.

**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 the status of the Plan 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 the status of the Plan 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 6 – Letter from Chief Planner**

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

No

If Yes, please insert date:

**Regional Planning Policy & Casework**

Department for

**Infrastructure**

An Roinn

**Bonneagair**

Department fur

**Infrastructure**[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

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Mr. Conor Hughes  
Head of Planning  
Lisburn & Castlereagh City Council  
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[fiona.mccartan@infrastructure-ni.gov.uk](mailto:fiona.mccartan@infrastructure-ni.gov.uk)

4<sup>th</sup> May 2023

Dear Conor

**LCCC Plan Strategy Independent Examination (IE) Report**

I refer to your letter received 4 April 2023.

As you are aware the Planning Appeals Commission's (PAC) report regarding the LCCC Plan Strategy Independent Examination (IE) was received by the Department on 30 November 2022. It is the case that the report has raised a number of issues that have required further, more detailed consideration. This has resulted in a longer timeframe than the published guidance in Development Plan Practice Note 11.

The Department has sought legal advice on several important issues however, as I am sure you will appreciate, I cannot provide you with further detail on the nature of the legal advice sought and received. This advice is currently being considered by officials. I can, however, assure you that the Department is considering the report as a matter of urgency.

The Department will continue to liaise with Council, however you will be aware that we have entered a period of purdah and as a result decisions are unlikely to be taken until after the May elections. I will be in a position to update you further on timescales following the elections.

I hope you find this response helpful.

Yours sincerely,

**Alistair Beggs**

Chief Planner &amp; Director Regional Planning Policy &amp; Casework



## Planning Committee

19 June 2023

Report from:

Head of Planning and Capital Development

### Item for Noting

TITLE: Item 7 – Enforcement Update

Background and Key Issues:

#### Background

1. Enforcement is a discretionary power, and the Council will not pursue minor breaches of planning control where there is no significant harm being caused, or where it is not considered expedient to do so.
2. A decision to proceed with formal enforcement action (ie the issue of an Enforcement Notice or service of a Breach of Condition Notice) is a delegated function in accordance with the Planning Scheme of Delegation.
3. All actions taken in response to a breach of planning control will be proportionate to the harm being caused and in accordance with the Council's priorities.

#### Key Issues

1. In accordance with the Protocol for the Operation of the Planning Committee a report is prepared on the progress of formal enforcement cases which is attached (**see Appendix**). Members are also presented with the total number of live enforcement cases in the system and a breakdown of the issues that arise from the complaints.

**Recommendation:**

Members are asked to note this update on enforcement action.

**Finance and Resource Implications:**

No additional finance or resources are identified.

## 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 updating the committee on the status of enforcement cases and EQIA is not required.

If yes, what was the outcome?:

<b>Option 1</b> Screen out without mitigation	<input type="text" value="N/A"/>	<b>Option 2</b> Screen out with mitigation	<input type="text" value="N/A"/>	<b>Option 3</b> Screen in for a full EQIA	<input type="text" value="N/A"/>
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**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 updating the committee on the status of enforcement cases 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 – Enforcement Update

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

No

If Yes, please insert date:



## Appendix - Planning Enforcement Update

Item Number	Title	Background and key Issues
<b>Planning Committee</b>		
1	Planning Enforcement Cases with Court proceedings	<p><b>(a.) LA05/2018/0180/CA - 148a Saintfield Road, Lisburn</b></p> <p>Non-compliance with Enforcement Notice, defendant appeared in Court on 16<sup>th</sup> May 2023 fined £10,000 and ordered to pay £3,000 towards Council costs.</p> <p><b>(b.) LA05/2019/0237/CA - Lands opposite 18 Tansy Road, Lisburn</b></p> <p>Non-compliance with Enforcement Notice, defendant due for first appearance in Court on 20<sup>th</sup> June 2023.</p> <p><b>(c.) LA05/2022/0276/CA - At various locations throughout the Council Area</b></p> <p>Display(s) of unauthorised advertisements, defendant due for first appearance in Court on 19<sup>th</sup> June 2023.</p>
2	Current Enforcement Cases	<p><b>Current Planning Enforcement live case list:</b></p> <p>Total cases: 303</p> <p>Nature of Breach:</p> <ul style="list-style-type: none"> <li>Unauthorised Advertisements: 36 cases</li> <li>Operational Development: 140 cases</li> <li>Breach of Condition: 46 cases</li> <li>Change of use: 76 cases</li> <li>Demolition in Conservation Area: 2 cases</li> <li>Unauthorised works to Protected Trees: 3 cases</li> </ul>

