



January 28th, 2025

Chairman : Alderman M Gregg

Vice Chairman : Councillor S Burns

Aldermen : O Gawith and J Tinsley

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

**Notice of Meeting**

A meeting of the Planning Committee will be held on **Monday, 3rd February 2025** at **10:00 am**, in the **Council Chamber & 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)

▢ *Disclosure of Interests form Sept 24.pdf*

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## 3.0 Minutes of the Planning Committee Meeting held on 6 January, 2025

*For Approval*

▢ *PC 06.01.2025 - Draft Minutes for Adoption.pdf*

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

### 4.1 Schedule of Applications to be Determined:

*For Decision*

▢ *Item 1 - Schedule of Applications.pdf*

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(i) LA05/2021/1064/F - Dwelling and garage on lands approximately 110 metres south of 76 Carnbane Road (formerly 81 Carnbane Road), Hillsborough

▢ *Appendix 1.1 DM Officer Report LA05.2021.1064.F Carnbane Road Final.pdf*

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(ii) LA05/2023/0107/F - Dwelling and garage on a site between 35 and 37 Glebe Road, Annahilt, Hillsborough

▢ *Appendix 1.2(a) - DM Officer Report LA05.2023.0107.F Glebe Road Addendum Final.pdf*

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▢ *Appendix 1.2(b) Report of Site Meeting LA05-2023-0107-F - 21.01.2025 (002).pdf*

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▢ *Appendix 1.2(c) - DM Officer Report LA05.2023.0107.F Glebe Road Final (6.1.25).pdf*

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(iii) LA05/2022/0831/F – Proposed retention of recently constructed agricultural building on land adjacent to 112 Back Road, Drumbo

▢ *Appendix 1.3(a) DM Officer Report - LA05 2022 0831.F - Back Road- Addendum - FINAL.pdf*

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▢ *Appendix 1.3(b) Report of Site Meeting LA05-2022-0831-F.pdf*

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	Appendix 1.3(d) DM Officer Report LA05.2022.0831.F Back Road - FINAL(2.12.24).pdf	Page 70
(iv)	LA05/2022/0447/F - Erection of 19 dwellings, consisting of 14 detached dwellings and 5 apartments (including change of house type to sites 17-21, 26-30 & 37 of previous approval LA05/2018/0196/F), landscaping and all other associated site works on lands 62 metres southeast of 11 Woodfort Gardens and approx. 47metres southeast of 48 Fairfields Meadow, Lisburn	
	Appendix 1.4 - DM Officer Report LA05.2022.0447 - Fairfields Final.pdf	Page 89
(v)	LA05/2024/0268/F - widening of the Lagan Towpath, Lisburn where the River Lagan runs adjacent to the Laganbank Road. Works will include construction of new concrete retaining wall on lands adjacent to Laganbank Road, Laganbank Retail Park, Lisburn	
	Appendix 1.5 LA05.2024.0268.F Lagan Towpath tc.pdf	Page 127
<b>4.2</b>	<b>Appeal Decision – LA05/2020/0771/O</b>	
	<i>For Noting</i>	
	Item 2 - Appeal Decision -LA052020 0771o.pdf	Page 160
	Appendix 2 Appeal decision LA05 2020 0771o (1).pdf	Page 162
<b>4.3</b>	<b>Appeal Decisions – LA05/2021/0947/O &amp; LA05/2021/0948/O</b>	
	<i>For Noting</i>	
	Item 3 - Appeal Decision -LA052021 0947 948.pdf	Page 168
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<b>4.4</b>	<b>Quarter 2 Statistical Bulletin – July to September 2024/25</b>	
	<i>For Noting</i>	
	Item 4 - Quarter 2 Statistical Bulletin - July-September 2024.pdf	Page 176
<b>4.5</b>	<b>Proposed amalgamation of units including minor amendments, reconfiguration and extension to mezzanine floor, associated plant and all other site works at Units 3 and 4 (Former Argos and Former Next Home), adjacent to Sainsbury's Superstore, Sprucefield Park</b>	
	<i>For Decision</i>	
	Item 5 - LA052024 0932PAN.pdf	Page 179
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	<b>Appendix 5(b) LA05 2024 0932PAN Application Form.pdf</b>	<b>Page 184</b>
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<b>4.6</b>	<b>Proposed development of 80 dwelling units, including new access, car parking, landscaping, open space and all associated site works on lands at 70 Belfast Road, Lisburn</b>	
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	<b>Item 6 - LA052025 0015PAN.pdf</b>	<b>Page 192</b>
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<b>4.7</b>	<b>Statutory Performance Indicators - November &amp; December 2024</b>	
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	<b>Item 7 - Statutory Performance Indicators - November December 2024.pdf</b>	<b>Page 205</b>
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	<b>Appendix 7b Lisburn_Castlereagh_December_Monthly_MI.pdf</b>	<b>Page 209</b>
<b>4.8</b>	<b>Item 8 – Access to justice in relation to the Aarhus convention (a call for evidence)</b>	
	<i>For Noting</i>	
	<b>Item 8 - NI call for evidence access to justice - in relation to the Aarhus convention Draft.pdf</b>	<b>Page 210</b>
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<b>4.9</b>	<b>Notification by telecommunication operator(s) of intention to utilise permitted development rights</b>	
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## **5.0 Any Other Business**

LISBURN & CASTLEREAGH CITY COUNCIL

MEMBERS DISCLOSURE OF INTERESTS

1. Pecuniary Interests

The Northern Ireland Local Government Code of Conduct for Councillors under Section 6 requires you to declare at the relevant meeting any pecuniary interest that you may have in any matter coming before any meeting of your Council.

Pecuniary (or financial) interests are those where the decision to be taken could financially benefit or financially disadvantage either you or a member of your close family. A member of your close family is defined as at least your spouse, live-in partner, parent, child, brother, sister and the spouses of any of these. Members may wish to be more prudent by extending that list to include grandparents, uncles, aunts, nephews, nieces or even close friends.

This information will be recorded in a Statutory Register. On such matters **you must not speak or vote**. Subject to the provisions of Sections 6.5 to 6.11 of the Code, if such a matter is to be discussed by your Council, **you must withdraw from the meeting whilst that matter is being discussed**.

2. Private or Personal Non-Pecuniary Interests

In addition you must also declare any significant private or personal non-pecuniary interest in a matter arising at a Council meeting (please see also Sections 5.2 and 5.6 and 5.8 of the Code).

Significant private or personal non-pecuniary (membership) interests are those which do not financially benefit or financially disadvantage you or a member of your close family directly, but nonetheless, so significant that could be considered as being likely to influence your decision.

Subject to the provisions of Sections 6.5 to 6.11 of the Code, you must declare this interest as soon as it becomes apparent and **you must withdraw from any Council meeting (including committee or sub-committee meetings) when this matter is being discussed**.

In respect of each of these, please complete the form below as necessary.

Pecuniary Interests

Meeting (Council or Committee - please specify and name):

\_\_\_\_\_

Date of Meeting: \_\_\_\_\_

Item(s) in which you must declare an interest (please specify item number from report):

\_\_\_\_\_

Nature of Pecuniary Interest:

**Private or Personal Non-Pecuniary Interests**

Meeting (Council or Committee - please specify and name):

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Date of Meeting: \_\_\_\_\_

Item(s) in which you must declare an interest (please specify item number from report):

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Nature of Private or Personal Non-Pecuniary Interest:

Name:

Address:

Signed:

Date:

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*If you have any queries please contact David Burns, Chief Executive,  
Lisburn & Castlereagh City Council*

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**LISBURN & CASTLEREAGH CITY COUNCIL****Minutes of Planning Committee Meeting held in the Council Chamber and in Remote Locations on Monday, 6 January, 2025 at 10.05 am****PRESENT IN CHAMBER:**

Alderman M Gregg (Chair)

Councillor S Burns (Vice-Chair)

Aldermen O Gawith and J Tinsley

Councillors P Catney, U Mackin, A Martin, G Thompson and N Trimble

**IN ATTENDANCE:**Director of Regeneration and Growth  
Head of Planning & Capital Development  
Senior Planning Officers (PMcF and GM)  
Member Services Officers (CR and CH)Mr B Martyn (Cleaver Fulton Rankin) – Legal Advisor  
Mr S Masterson (Cleaver Fulton Rankin) – observing remotely  
Ms L Agnew (Cleaver Fulton Rankin) – observing in chamber**Commencement of Meeting**

At the commencement of the meeting, the Chair, Alderman M Gregg, welcomed those present to the Planning Committee and wished them a Happy New Year. He pointed out that, unless the item on the agenda was considered under confidential business, this meeting would be audio recorded. He went on to outline the evacuation procedures in the case of an emergency.

**1. Apologies**

It was agreed to accept apologies for non-attendance at the meeting on behalf of Councillors D Bassett and D J Craig.

**2. Declarations of Interest**

There were no declarations of interest.

**3. Minutes of Meeting of Planning Committee held on 2 December, 2024**

It was proposed by Alderman J Tinsley, seconded by Councillor G Thompson and agreed that the minutes of the meeting of Committee held on 2 December, 2024 be confirmed and signed.

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#### 4. Report from the Head of Planning & Capital Development

##### 4.1 Schedule of Applications

The Chair, Alderman M Gregg, advised that there were 3 local applications on the schedule for consideration at the meeting, with 2 applications having previously been withdrawn from the schedule.

##### 4.1.1 Applications to be Determined

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.

(i) LA05/2023/0107/F – Dwelling and garage on a site between 35 and 37 Glebe Road, Annahilt

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

In advance of receiving the registered speakers, Alderman J Tinsley, having stated that he would benefit from viewing the location of the development, proposed that this application be deferred for a site visit. This was seconded by Alderman O Gawith and agreed on a vote being taken, the voting being 6 in favour and 3 against.

(ii) LA05/2022/0831/F – Proposed retention of recently constructed agricultural building on land adjacent to 112 Back Road, Drumbo

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

The Committee received Mr N Reid and Alderman J Baird to speak in support of the application and a number of Members' queries were addressed.

Alderman O Gawith, having stated that he would benefit from viewing the building to assess its prominence in the landscape, proposed that this application be deferred for a site visit. This was seconded by Councillor U Mackin and agreed on a vote being taken, the voting being 6 in favour, 2 against and 1 abstention.

##### Adjournment of Meeting

The Chair, Alderman M Gregg, declared the meeting adjourned at this point for a comfort break (11.13 am).

##### Resumption of Meeting

The meeting was resumed at 11.19 am.



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- (iii) LA05/2024/0100/F – Erection of eight dwellings (change of house type to sites 148-151, 156-157 & 193-194 and alternative layout to that previously approved under reference LA05/2020/0720/F) on lands 90 metres North of 1-7 (odd numbers) Sir Richard Wallace Gardens, Lisburn & 30 metres west of 1-9 (odd numbers) Sir Richard Wallace View, Lisburn

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

No-one was registered to speak on this application.

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

#### Debate

There were no comments made at the debate stage.

#### Vote

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

- 4.2 Proposed new-build residential development comprising 102no. housing units, comprising of 4no. five-bedroom detached houses, 36no. four-bedroom detached houses, 32no. four-bedroom semi-detached houses, 2no. three-bedroom detached houses and 8no. three-bedroom semi-detached houses. A total of 20% of the housing units are provided as affordable housing scattered throughout the development, including 2no. three-bedroom detached houses & 18no. three-bedroom semi-Detached houses. The development incorporates landscaped open Space, car parking and associated site works on lands northeast of Nos. 1-19 Chestnut Hall Avenue, No.27c Maghaberry Road, southeast of Maghaberry Community Centre, northwest of Nos. 3, 5, 5a & 5b Yewtree Hill Road. The site is accessed from Maghaberry Road

It was proposed by Councillor P Catney, seconded by Councillor A Martin and agreed to note the information on the content of the Pre-application Notice and that it be submitted in accordance with the relevant section of the legislation and related guidance.

Further to comments by Alderman O Gawith, the Head of Planning & Capital Development agreed to bring to the attention of the applicant that the proposed 20 affordable housing units was less than 20% of the total units of 102.

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- 4.3 Proposed mixed use development to include new housing, including affordable housing (Use Class C1), employment (Use Classes B1, B2 B3 and B4), and healthcare (Use Class D1(A)) with associated local needs convenience retailing (Use Class A1), riverside parkland, landscaping and associated infrastructure on Lands at Blaris, Lisburn (lands between existing M1 Junction 8/A 101 roundabout and Moira Road/Knockmore Road junction)

It was proposed by Councillor P Catney, seconded by Councillor A Martin and agreed to note the information on the content of the Pre-application Notice and that it be submitted in accordance with the relevant section of the legislation and related guidance.

- 4.4 Appeal Decision – LA05/2021/0786/O

It was proposed by Alderman O Gawith, seconded by Councillor P Catney and agreed that the report and decision of the Planning Appeals Commission in respect of the above appeal be noted.

- 4.5 Notification by Telecommunication Operator(s) of Intention to Utilise Permitted Development Rights

It was proposed by Councillor U Mackin, seconded by Alderman J Tinsley and agreed to note from the report, information regarding notification by telecommunication operators of intention to utilise Permitted Development Rights at a number of locations in the Council area.

- 4.6 Update to the Protocol for the Operation of the Planning Committee

Members were provided with a copy of the Protocol for the Operation of the Planning Committee which had been revised at paragraphs 29 to 33, relating to Members' Declarations of Interest. The Head of Planning & Capital Development and the Director of Service Transformation responded to a number of comments and queries raised by Members and emphasised that the document was 'fluid' and could be reviewed at any time.

It was proposed by Councillor P Catney, seconded by Alderman O Gawith and agreed that the revised Protocol be approved.

5. Any Other Business

- 5.1 Thanks to Planning Unit Staff  
Alderman J Tinsley

Alderman J Tinsley acknowledged the compassion and professionalism shown recently by Officers in the Planning Unit in dealing with an applicant who was ill and had since passed away.

Conclusion of the Meeting

At the conclusion of the meeting, the Chair, Alderman M Gregg, thanked those present for their attendance.

There being no further business, the meeting was terminated at 12.03 pm.

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Chair/Mayor

DRAFT

<b>Committee:</b>	Planning Committee
<b>Date:</b>	03 February 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Decision
<b>Subject:</b>	Schedule of Planning Applications to be Determined
1.0	<p><b><u>Background</u></b></p> <ol style="list-style-type: none"> <li>1. The following applications have been made to the Council as the Local Planning Authority for determination.</li> <li>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.</li> <li>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.</li> </ol> <p><b><u>Key Issues</u></b></p> <ol style="list-style-type: none"> <li>1. The applications are presented in accordance with the current scheme of delegation. There are five local applications. Three of the applications are called in by agreement with the Chair of the Committee (with two of these previously deferred), one whereby exceptions apply and one mandatory. <ol style="list-style-type: none"> <li>a) LA05/2021/1064/F - Dwelling and garage on lands approximately 110 metres south of 76 Carnbane Road (formerly 81 Carnbane Road), Hillsborough Recommendation: Refusal</li> <li>b) LA05/2023/0107/F - Dwelling and garage on a site between 35 and 37 Glebe Road, Annahilt, Hillsborough Recommendation: Refusal</li> <li>c) LA05/2022/0831/F – Proposed retention of recently constructed agricultural building on land adjacent to 112 Back Road, Drumbo Recommendation: Refusal</li> <li>d) LA05/2022/0447/F - Erection of 19 dwellings, consisting of 14 detached dwellings and 5 apartments (including change of house type to sites 17-21, 26-30 &amp; 37 of previous approval LA05/2018/0196/F), landscaping and all other associated site works on lands 62 metres southeast of 11 Woodfort Gardens and approx. 47metres southeast of 48 Fairfields Meadow, Lisburn Recommendation: Approval</li> <li>e) LA05/2024/0268/F - widening of the Lagan Towpath, Lisburn where the River Lagan runs adjacent to the Laganbank Road. Works will include construction of</li> </ol> </li> </ol>

	<p>new concrete retaining wall on lands adjacent to Laganbank Road, Laganbank Retail Park, Lisburn                      Recommendation: Approval</p> <p>2. The applications will be decided having regard to paragraphs 47 to 64 of the Protocol of the Operation of the Planning Committee.</p>	
2.0	<p><b><u>Recommendation</u></b></p> <p>For each application the Members are asked to make a decision having considered the detail of the Planning Officer’s report, listened to any third-party representations, asked questions of the officers, taken legal advice (if required) and engaged in a debate of the issues.</p>	
3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>Decisions may be subject to:</p> <ul style="list-style-type: none"> <li>(a) Planning Appeal (where the recommendation is to refuse)</li> <li>(b) Judicial Review</li> </ul> <p>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.</p> <p>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.</p>	
4.0	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
4.1	<p>Has an equality and good relations screening been carried out?</p>	<p>No</p>
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.</p> <p>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.</p>	
4.3	<p>Has a Rural Needs Impact Assessment (RNIA) been completed?</p>	<p>No</p>
4.4	<p>Summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.</p> <p>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.</p>	

<p><b>Appendices:</b></p>	<p>Appendix 1.1 – LA05/2021/1064/F                  Appendix 1.2a – LA05/2023/0107/F Addendum Report                  Appendix 1.2b – LA05/2023/0107/F Site visit                  Appendix 1.2c – LA05/2023/0107/F Main Report 6.1.25                  Appendix 1.3a – LA05/2022/0831/F Addendum Report                  Appendix 1.3b – LA05/2022/0831/F Site visit                  Appendix 1.3c – LA05/2022/0831/F Main Report 6.1.25                  Appendix 1.3d – LA05/2022/0831/F Main Report 2.12.24                  Appendix 1.4 – LA05/2022/0447/F                  Appendix 1.5 – LA05/2024/0268/F</p>

**Lisburn & Castlereagh City Council**

<b>Planning Committee</b>	
Date of Committee	03 February 2025
Committee Interest	Local Application (Called-In)
Application Reference	LA05/2021/1064/F
Date of Application	29 <sup>th</sup> September 2021
District Electoral Area	Downshire East
Proposal Description	Dwelling and garage
Location	Approximately 110 metres south of 76 Carnbane Road (formerly 81 Carnbane Road) Hillsborough Lisburn
Representations	None
Case Officer	Cara Breen
Recommendation	Refusal

**Summary of Recommendation**

1. This application is categorised as a Local application. It is presented to the Planning Committee in accordance with the Protocol for the Operation of the Planning Committee in that it has been 'called-in.'
2. The application is recommended for refusal as it is considered that the proposed development is contrary to Policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy, in that the proposed development is not a type of development which in principle is acceptable in the countryside.
3. The proposal is contrary to Policy COU8 of the Lisburn and Castlereagh City Council Plan Strategy, in that the proposed development would add to a ribbon of development along Carnbane Road.
4. The proposal is contrary to Criteria (f) and (g) of Policy COU15 of the Lisburn and Castlereagh City Council Plan Strategy, in that the design of the proposed dwelling and garage is inappropriate for the site and its locality and the proposed ancillary works do not integrate with their surroundings.
5. Lastly, the proposal is contrary to Criteria (c), (e) and (h) of Policy COU16 of the Lisburn and Castlereagh City Council Plan Strategy, in that the proposed development, if permitted, would not respect the traditional pattern of settlement exhibited in that area, result in an adverse impact on the rural character of the

area and the impact of ancillary works would have an adverse impact on rural character.

## Description of Site and Surroundings

### Site

6. The application site is located circa 110 metres south of No. 76 Carnbane Road, Hillsborough, Lisburn. It is 1.52 hectare in size, irregular in shape and formerly used as a paddock area.
7. There were no buildings on the site at the time of site inspection. It is accessed via an existing access from Carnbane Road.
8. The northern (roadside) boundary is defined by a post and wire fence set behind a maintained grass verge. The north eastern boundary is demarcated by mature mixed species hedgerow, as is the south eastern boundary. The south western boundary is defined by a post and wire fence.
9. In relation to topography, the application site is relatively flat throughout, with some parts moderately undulating.

### Surroundings

10. The site is in the open countryside. The area is rural in character and the land predominantly agricultural in use, characterised by drumlin topography.

## Proposed Development

11. Full Planning permission is sought for a dwelling and garage.
12. The application was accompanied by the following supporting documentation:
  - Remediation Strategy
  - Drainage Assessment and revised assessment (Revision A)
  - Schedule 6 Application

## Relevant Planning History



13. The Planning history associated with the application site is set out in the table below:

Reference Number	Description	Location	Decision
LA05/2020/0439/RM	Dwelling and garage	81 Carnbane Road Hillsborough	Permission Granted  8 <sup>th</sup> March 2021
LA05/2015/0853/O	Proposed dwelling	81 Carnbane Road Hillsborough	Permission Granted  23 <sup>rd</sup> May 2017
S/2011/0218/F	Proposed new build cat adoption centre incorporating rehoming, administrative, education and veterinary facilities	81 Carnbane Road Hillsborough	Permission Refused
S/2000/0491/F	Mixed animal veterinary clinic with associated on site residential accommodation	77a Carnbane Road, Hillsborough	Permission Granted

### Consultations

14. The following consultations were carried out:

Consultee	Response
DfI Roads	No Objection
NI Water	No Objection
LCCC Environmental Health	No Objection
DfI Rivers PAMU	No Objection

## Representations

15. No representations have been received.

## Local Development Plan

16. 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.

### Plan Strategy 2032

17. It is stated at Part 1 of the Plan Strategy that:

*'Transitional arrangements will apply in relation to the existing Plan designations. The existing Development Plans which remain in effect for different parts of the Council area are set out in Chapter 2 (Existing Development Plans). Following adoption the Development Plan will be the Plan Strategy and any old Development Plan, with the Plan Strategy having priority in the event of a conflict. Regulation 1 states that the old Development Plans will cease to have effect on adoption of the new LDP at Local Policies Plan (LPP) stage.*

*The Belfast Metropolitan Area Plan (BMAP) was intended to be the Development Plan on its adoption in September 2014. This Plan was subsequently declared unlawful following a successful legal challenge and therefore remains in its entirety un-adopted.*

*BMAP in its post-inquiry form was at an advanced stage and therefore remains a material consideration. Draft BMAP (November 2004) in its pre-inquiry form also remains a material consideration in conjunction with recommendations of the Planning Appeals Commission Public Local Inquiry Reports.'*

18. In accordance with the transitional arrangements, the development plan is the Plan Strategy and the Lisburn Area Plan. Draft BMAP remains a material consideration.
19. The site is located within the Green Belt in the Lisburn Area Plan (2001). In draft BMAP (2015), the application site is located in the open countryside, out with any defined settlement limit. Significant weight is attached to the last revision of draft BMAP which shows the application site located in the open countryside.

20. This application is for new housing in the open countryside. The strategic policy for new housing in the countryside is set out in Part 1 of the Plan Strategy.
21. Strategic Policy 09 Housing in the Countryside states:

*The Plan will support development proposals that:*

- (a) provide appropriate, sustainable, high quality rural dwellings, whilst protecting rural character and the environment*
- (b) resist urban sprawl in the open countryside which mars the distinction between the rural area and urban settlements*
- (c) protect the established rural settlement pattern and allow for vibrant sustainable communities.*

## **Development in the Countryside**

### Development in the Countryside

22. This is a proposal for a new single dwelling in the open countryside. Policy COU1 – Development in the Countryside 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.*

*Details of operational policies relating to acceptable residential development proposals are set out in policies COU2 to COU10.*

*Details of operational policies relating to acceptable non-residential development proposals are set out in policies COU11 - COU14.*

*There are a range of other non-residential development proposals that may in principle be acceptable in the countryside. Such proposals must comply with all policy requirements contained in the operational policies, where relevant to the development.*

*Any proposal for development in the countryside will also be required to meet all of the general criteria set out in Policies COU15 - COU16.’*

### Infill/Ribbon Development

23. A new dwelling is proposed along the road frontage. Policy COU8 – Infill/Ribbon Development states:

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

*Exceptionally, there may be situations where the development of a small gap, sufficient to accommodate 2 dwellings within an otherwise substantial and continuously built up frontage, may be acceptable. For the purpose of this policy a substantial and continuously built up frontage is a line of 4 or more buildings, of which at least 2 must be dwellings, excluding domestic ancillary buildings such as garages, sheds and greenhouses, adjacent to a public road or private laneway.*

*The proposed dwellings must respect the existing pattern of development in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings that constitute the frontage of development. Buildings forming a substantial and continuously built up frontage must be visually linked.'*

### Integration and Design of Buildings in the Countryside

#### 24. Policy COU15 - Integration and Design of Buildings in the Countryside states:

*'In all circumstances proposals for development in the countryside must be in accordance with and sited and designed to integrate sympathetically with their surroundings and of an appropriate design.*

*A new building will not be permitted if any of the following apply:*

- a) *it is a prominent feature in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop*
- d) *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*
- e) *it relies primarily on the use of new landscaping for integration*
- f) *the design of the building is inappropriate for the site and its locality*
- g) *ancillary works do not integrate with their surroundings.'*

### Rural Character and other Criteria

#### 25. Policy COU16 – Rural Character and other Criteria states;

*'In all circumstances proposals for development in the countryside must be in accordance with and must not cause a detrimental change to, or further erode the rural character of an area.*

*A new development proposal will be unacceptable where:*

- a) *it is unduly prominent in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it does not respect the traditional pattern of settlement exhibited in that area*
- d) *it mars the distinction between a settlement and the surrounding countryside, or otherwise results in urban sprawl*
- e) *it has an adverse impact on the rural character of the area*
- f) *it would adversely impact on residential amenity*
- g) *all necessary services, including the provision of non mains sewerage, are not available or cannot be provided without significant adverse impact on the environment or character of the locality*
- h) *the impact of ancillary works (with the exception of necessary visibility splays) would have an adverse impact on rural character*
- i) *access to the public road cannot be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.'*

## **Waste Management**

### Treatment of Waste Water

26. A septic tank is proposed to serve the development. Policy WM2 - Treatment of Waste Water states:

*'Development proposals to provide mains sewage Wastewater Treatment Works (WwTWs) will be permitted where it is demonstrated to the Council there is a need for new or extended capacity requirements and the new facilities comply with the requirements of Policy WM1.*

*Development relying on non mains sewage treatment will only be permitted where it is demonstrated to the Council and its statutory consultees that there is sufficient capacity to discharge treated effluent to a watercourse and that this will not create or add to a pollution problem or create or add to flood risk.'*

## **Access and Transport**

### Access to Public Roads

27. A new access is proposed onto the Carnbane Road. Policy TRA2 – 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) *it will not prejudice road safety or significantly inconvenience the flow of vehicles; and,*
- b) *it does not conflict with Policy TRA3 Access to Protected Routes.*

*Consideration will also be given to the nature and scale of the development, character of existing development, the contribution of the proposal to the creation of a quality environment, 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.’*

## **Natural Heritage**

### Species Protected by Law

28. The site is large and hedgerow is removed as part of the proposed development. Policy NH2- Species Protected by Law states;

#### *‘European Protected Species*

*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:*

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

#### *National Protected Species*

*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

29. Policy NH5 – Habitats, Species or Features of Natural Heritage Importance 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:*

*a)priority habitats*

*b)priority species*

*c)active peatland*

*d)ancient and long-established woodland*

*e)features of earth science conservation importance*

*f)features of the landscape which are of major importance for wild flora and fauna*

*g)rare or threatened native species*

*h)wetlands (includes river corridors)*

*i)other natural heritage features worthy of protection including trees and woodland.*

*A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features listed above 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.'*

## **Flooding**

### Protection of Flood Defence and Drainage Infrastructure

30. Policy FL2 – Protection of Flood Defence and Drainage Infrastructure states;

*'Development will not be permitted that impedes the operational effectiveness of flood defence and drainage infrastructure or hinder access for maintenance, including building over the line of a culvert.'*

### Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains

31. A drainage assessment is submitted with the application. Policy FLD3 – Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states;

'A Drainage Assessment (DA) will be required for development proposals that exceed any of the following thresholds:

- a) a residential development of 10 or more units
- b) a development site in excess of 1 hectare
- c) a change of use involving new buildings and/or hardsurfacing exceeding 1,000 square metres in area.

A DA will also be required for any development proposal, except for minor development where:

- it is located in an area where there is evidence of historical flooding
- surface water run-off from the development may adversely impact on other development or features of importance to nature conservation, archaeology or historic environment features.

A development requiring a DA will be permitted where it is demonstrated through the DA 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. If a DA is not required, but there is potential for surface water flooding as shown on the surface water layout of DfI Flood Maps NI, it remains the responsibility of the developer to mitigate the effects of flooding and drainage as a result of the development.

Where the proposed development is also located within a fluvial flood plain, then Policy FLD1 will take precedence.



32. The SPPS was published in September 2015. It is the most recent Planning policy and it is stated at Paragraph 1.5 that:

*'The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals. The Department intends to undertake a review of the SPPS within 5 years.'*

33. 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.'*

34. 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.'*

35. The SPPS remains a material consideration of significant weight irrespective of what stage the Local Development Plan making process is at. The policies in the Plan Strategy have been drafted to be consistent with the SPPS.
36. The following retained regional guidance documents remain material considerations.

### ***Building on Tradition***

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

37. The policies in PPS 3 are replaced by the Plan Strategy. However, the guidance in Development Control Advice Note 15 – Vehicular Access Standards is retained. It states (Paragraph 1.1);

*'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

As set out at paragraph 9 above, there is a complex planning history associated with this site.

38. An application (S/2000/0491/F) for a mixed animal veterinary clinic with associated on site residential accommodation was approved in January 2001. It is understood from building control records (FP/2005/1733) that an application for a veterinary hospital (shell only) was commenced on 17<sup>th</sup> January 2006. However, it is acknowledged that no CLOPUD was ever submitted to confirm that the development had been lawfully commenced.
39. A subsequent application in 2011(S/2011/0218/F) for a new build cat adoption centre incorporating rehoming, administrative, education and veterinary facilities for the Cats Protection League was approved in September 2013. However, this decision was challenged at the High Court (2013 No. 126032/01) and quashed on the basis that PED 2 of PPS 4 was not considered and that the 'exceptional circumstances' provided for economic development in the countryside which is similar to the 'overriding reasons' as per policy CTY 1 of PPS21 were disregarded as part of the assessment. The remitted application was subsequently refused.
40. An outline application for a single dwelling on the application site was submitted under application reference LA05/2015/0853/O. Whilst it was noted in the Case Officers report that the proposal did not meet any of the criteria for residential development in the open countryside in PPS 21 to justify a dwelling on the application site, it did note that foundations were observed on the site and it would appear that S/2000/0491/F had commenced on the ground and therefore constituted a substantial 'fall-back' position.
41. The planning report notes that if the veterinary clinic were to be fully implemented the site would have a substantial rural building with a substantial amount of activity in terms of vehicles etc. It is also noted that the former application also included a residential use. Material weight is given in the case officer's report to the site being utilised in a manner which would be fully compatible with the rural environment. In light of this planning permission for a dwelling was approved on 23<sup>rd</sup> May 2017.
42. An associated Reserved Matters application was submitted to the Council (LA05/2020/0439/RM) and approved on 8<sup>th</sup> March 2021. The development was not commenced and the history is no longer a material consideration.
43. The agent was made aware on 20<sup>th</sup> February 2024 that in order for this application to be considered as a change of house type a CLOPUD would need to be submitted and approved by the Council confirming that the permission for the

dwelling had been lawfully commenced. To date no COPUD has been forthcoming.

44. There is no evidence of any intent to continue with the previous history of approval for a veterinary clinic irrespective of whether it was commenced. Again, no CLOPUD is submitted as described above. No weight is attached to this earlier history and the Council is not bound by the earlier decision given the considerable amount of time that has elapsed between the period this application was first approved and now.
45. Therefore, the principle of development is revisited in line with the adopted Lisburn and Castlereagh City Council Plan Strategy 2032 which has replaced the former retained planning policy.

### **Development in the Countryside**

#### Policy COU1 – Development in the Countryside

46. Policy COU1 identifies a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. It states that the details of operational policies relating to acceptable residential development are set out in policies COU2 to COU10.
47. The proposal description refers only to a dwelling and garage and does not specify under which policy the application is to be assessed. No other supporting justification is provided to demonstrate how the requirements of policy COU1 are met.
48. It is not considered that the proposed scheme would fall for assessment under any of the policies as described in policies COU2 to COU10 and no supporting information has been submitted to address how other material considerations are to be weighed in the decision making process.
49. The requirements of policy COU1 are not met. It further states that any proposal for development in the countryside will also be required to meet all of the general criteria set out in policies COU15 – COU16. For completeness these are assessed.

#### Policy COU15 - Integration and Design of Buildings in the Countryside

50. The proposed dwelling would be architecturally complex in design, composed of a number of internally linked blocks of various ridge heights. The main block is a

large full two-storey Georgian style dwelling with a centrally positioned portico to the front elevation with a symmetrical appearance. The proposed dwelling would have an overall maximum ridge height of circa 10 metres above finished floor level (FFL) and it would occupy a footprint of approximately 348 metres squared. The proposed window units would primarily be of vertical emphasis. Two chimney stacks would project from the ridgeline at each gable end of the main block and a chimney stack would project from the block which would accommodate the proposed lounge.

51. The proposed schedule of external finishes includes; white render and stone (where indicated) for the external walls, natural slated roof, aluminum/PVC window units and doors and PVC rainwater goods.
52. The proposed scheme also includes a large detached garage block which would accommodate a three bay parking area, a section for bins/logs, a part for the storage of garden equipment, a boiler room, an area for storage and a home gym/office on the ground floor. The first floor of the proposed garage would accommodate a games room. The proposed garage would occupy a footprint of circa 221 metres squared and it would present a ridge height of approximately 8.2 metres above FFL.
53. Taking the siting of the proposed dwelling/garage within the application site (set back from Carnbane Road) into account in the context of the siting/orientation of neighbouring buildings, the existing road trajectory, the surrounding rising topography which tends to rise in gradient to the east and west of the application site and the existing mature vegetation in the immediate vicinity, it is not considered that the proposed dwelling/garage would be a prominent feature in the landscape.
54. It is accepted that the proposed dwelling/garage would cluster with the existing buildings directly to the east of the application site.
55. It is considered that the proposed dwelling/garage would blend with the existing buildings directly to the east of the application site.
56. The application site benefits from existing natural boundaries which are in situ to the north eastern boundary and the south eastern boundary of the application site. These are to be retained as per the detail on the submitted Proposed Site Layout plan.
57. It is noted that Building on Tradition guidance advises that 2-3 natural boundaries should be in place for the purposes of integration. The application site would benefit from 2 in situ natural boundaries which is considered to be acceptable. A degree of enclosure would also be provided by the existing buildings in situ in close proximity to the north eastern boundary of the application site.

58. Whilst it is acknowledged that new landscaping would be required to the northern and south western boundaries of the application site, taking the above into account, it is not perceived that the development proposal would rely primarily on the use of new landscaping for the purposes of integration.
59. The design of the proposed dwelling and associated detached domestic garage has been detailed above. The design is considered to be architecturally complex and with a footprint of circa 348 metres squared (and combined garage and house footprint of approximately 569 metres squared) and a ridge height of circa 10 metres above FFL (dwelling), it is considered to be inappropriate in terms of scale and mass for the site and its locality.
60. In terms of proposed ancillary works, the proposed vehicular access/driveway to the site was amended during the processing of the application. The proposed access was amended to allow it to run adjacent to the south western boundary of the application site and therefore it would not be sweeping and suburban in nature. Furthermore, additional landscaping is proposed to either side of the driveway to assist with integration. Taking the existing and proposed ground levels and FFL's into account, it is not perceived that an unacceptable degree of cut and fill would be required to accommodate the proposed scheme. No large retaining walls have been proposed.
61. It is however considered that the proposed large garden area to the front of the proposed dwelling would be unacceptable. It is noted that the Justification and Amplification text of Policy COU15 states;

*'Large formal areas between a new building and the public road can result in a prominent and unnatural feature in the countryside and are considered to be unacceptable.'*

62. It is therefore considered that the proposed ancillary works would not integrate with their surroundings.
63. Taking all of the above into account, it is considered that criteria (f) and (g) of policy COU15 of the Lisburn and Castlereagh City Council Plan Strategy are not met, in that the design of the buildings is inappropriate for the site and its locality and ancillary works do not integrate with their surroundings.

#### Policy COU16 - Rural Character

64. It is not considered that the proposed dwelling/garage would be unduly prominent in the surrounding landscape for the same reasons as described above.

65. It is further considered that the proposed development would cluster with the established group of existing buildings which are in situ in the immediate vicinity for the same reasons as described above.
66. It is considered that the proposed scheme would add to a ribbon of development to the southern side of Carnbane Road and this is further explained in the context of policy COU8 below. For these reasons, it is considered that it would not respect the traditional pattern of settlement exhibited in that area.
67. The application site falls wholly within the open countryside, out with defined settlement limits. Taking the location of the application site into account, it is not considered that it would mar the distinction between a settlement and the surrounding countryside, or otherwise result in urban sprawl.
68. As noted previously, it is considered that the proposed scheme would add to a ribbon of development to the southern side of Carnbane Road. The design of the proposed dwelling/garage is also considered to be unacceptable in the locality. For these reasons, it is considered that the development would have an adverse impact on the rural character of the area.
69. The proposed dwelling would be located circa 26.5 metres from the boundary (north eastern facing) at its nearest point. The north eastern boundary is bound by a private laneway. The proposed garage would be located circa 12.5 metres away from the closest boundary (north eastern). These separation distances are considered to be acceptable and therefore there are no concerns in relation to overlooking/overshadowing of any neighbouring property to an unreasonable degree.
70. LCCC Environmental Health were consulted as part of the processing of the application. In their final consultation response, they acknowledge receipt of the revised Remediation Strategy report with regards to contaminated material on site and note they have no objection. They offer no objection in respect to the proposed septic tank either. Taking the above into account, there are no concerns in relation to the impact of the proposed scheme on residential amenity.
71. LCCC Environmental Health, DfI Rivers, DfI Roads and NI Water were all consulted as part of the processing of the application. In their final consultation responses they offer no objection to the proposed scheme. In light of this, there are no concerns in respect to the provision of necessary services.
72. For the reasons outlined above, it is considered that the proposed ancillary works would have an adverse impact on rural character.

73. The proposed development would incorporate the installation of a new vehicular access from Carnbane Road which would be located where the northern boundary joins the south western facing boundary. DfI Roads were consulted as part of the processing of the application.
74. In their final consultation response, DfI Roads offer no objection to the proposed scheme, subject to the inclusion of stipulated conditions and informatives with any approval. Taking this into account, it is accepted that an access to the public road could be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.
75. Taking all of the above into account, it is contended that the proposed scheme is contrary to Criteria (c), (e) and (h) of Policy COU16 of the Lisburn and Castlereagh City Council Plan Strategy, in that, if permitted, the proposed development would not respect the traditional pattern of settlement exhibited in that area, it would have an adverse impact on the rural character of the area and the impact of ancillary works would have an adverse impact on rural character.

#### Policy COU8 – Infill/Ribbon Development

76. Policy COU8 states that Planning permission will be refused for a building which creates or adds to a ribbon of development.
77. The Justification and Amplification text of Policy COU8 describes a ribbon as:

*‘A ribbon of development cannot be defined by numbers, although, if there are two buildings fronting a road and beside one another, there could be a tendency to ribboning. Most frontages are not intensively built up and have substantial gaps between buildings, giving visual breaks in the developed appearance of the locality. Infilling of these gaps is visually undesirable and, in most cases, creates or adds to a ribbon of development.’*
78. It is contended that the proposed scheme would engage ribbon development by virtue of the fact that there is an existing dwelling at No. 65 Carnbane Road to the north east of the application site and an agricultural shed directly neighbouring this to the north east again. Both of these buildings are fronting Carnbane Road. A dwelling on the application site would therefore add to a ribbon of development along Carnbane Road.
79. Whilst it is acknowledged that Policy COU8 provides for exceptions to this, it is noted that the proposed scheme would not satisfy the exceptions test as the application site is not a gap in a substantial or continuously built-up frontage. There are no other buildings on the western boundary of the application site.

## **Access and Transport**

### Policy TRA2 - Access to Public Roads

80. A new vehicular access has been proposed as part of the development scheme. The proposed vehicular access point would be installed along the northern boundary of the application site, close to where it joins the south western facing boundary.
81. The proposed site layout plan depicts in-curtilage parking and turning to the front of the proposed dwelling, in addition to in-curtilage parking/turning for at least four private vehicles to the rear of the application site to the front of the proposed detached garage. The three bay garage would also facilitate in-curtilage parking.
82. It is noted that Carnbane Road is not a designated Protected Route.
83. DfI Roads were consulted as part of the processing of the application. In their final consultation response, dated 3<sup>rd</sup> August 2022, DfI Roads responded with no objection.
84. Taking the above into account, there are no concerns in relation to the proposed scheme insofar as it relates to Policy TRA2 of the Lisburn and Castlereagh City Council Plan Strategy.

## **Waste Management**

### Policy WM2 – Treatment of Waste Water

85. The detail submitted with the application (Application Form/Plans) indicates that the source of water supply is to be from Mains sources. Surface water is to be disposed of by soakaways and foul sewage is to be disposed of via a septic tank.
86. LCCC Environmental Health were consulted as part of the processing of the application. In their final consultation response, dated 1st March 2022, they confirm that they have no objection to the proposed development.
87. NI Water were also consulted as part of the processing of the application. In their final consultation response of 17<sup>th</sup> November 2021, they offer no objection to the proposal. Informatives would be included with any approval.



88. DfI Rivers were consulted as part of the processing of the application, in addition to the above. They offer no concerns in relation to the proposed scheme.
89. Based on a review of the information and advice received from consultees, there are no concerns with regards to the proposal insofar as it relates to Policy WM2 – Treatment of Waste Water.

## **Natural Heritage**

### Policy NH2 – Species Protected by Law

### Policy NH5 - Habitats, Species or Features of Natural Heritage Importance

90. As per the Proposed Site Layout plan, the existing vegetated boundaries to the north east and south east are to be retained and these would be conditioned as such with any approval. The boundaries to the north (roadside) and south west are currently not demarcated by vegetation. It is therefore considered that the proposed scheme would not involve significant vegetation clearance.
91. Additional planting has also been proposed.
92. With the above in mind, and with the aid of standard Wildlife/Conservation informatives which draw the applicant's/developer's attention to applicable Wildlife/Conservation legislation, it is considered that the proposed development could be accommodated without any adverse impact on natural heritage.
93. Taking all of the above into account, there are no concerns with regards to the proposal and Policies NH2 and NH5 of the Lisburn and Castlereagh City Council Plan Strategy.

## **Flooding**

### Protection of Flood Defence and Drainage Infrastructure

94. With regards to FLD2 of the Lisburn and Castlereagh City Council Plan Strategy, in their consultation response of 18<sup>th</sup> November 2022, DfI Rivers note that the applicant has demonstrated that they are leaving a minimum working strip of 5

metres along the watercourse to facilitate future maintenance. In light of this, officers are satisfied that the requirement of policy FLD2 are met.

### Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains

95. In their final consultation response, dated 28<sup>th</sup> February 2023, DfI Rivers states that the applicant has submitted adequate drainage drawings and calculations to support their proposals.
96. Furthermore, DfI Rivers notes that the applicant has also provided evidence from DfI Rivers area office consenting to a discharge of total maximum greenfield run-off rate of 4.8 l/s to the undesignated watercourse at the north western boundary of the site (as indicated in the DA).
97. DfI Rivers there note that whilst not being responsible for the submitted DA, they accept the applicant's logic and have no reason to disagree with the conclusions reached.
98. They do however note that it should be brought to the applicant's attention that the responsibility for justifying the DA and implementation of the proposed flood risk measures rests with the developer and his/hers professional advisors.
99. Taking this into account, there are no concerns in relation to Policy FLD3 of the Lisburn and Castlereagh City Council Plan Strategy.
100. Taking all of the above into account, there are no concerns in relation to the proposed scheme insofar as it pertains to Policy FLD2 and Policy FLD3 of the Lisburn and Castlereagh City Council Plan Strategy. DfI Rivers provide a series of informatives to be included with any approval.

### **Conclusions and Recommendation**

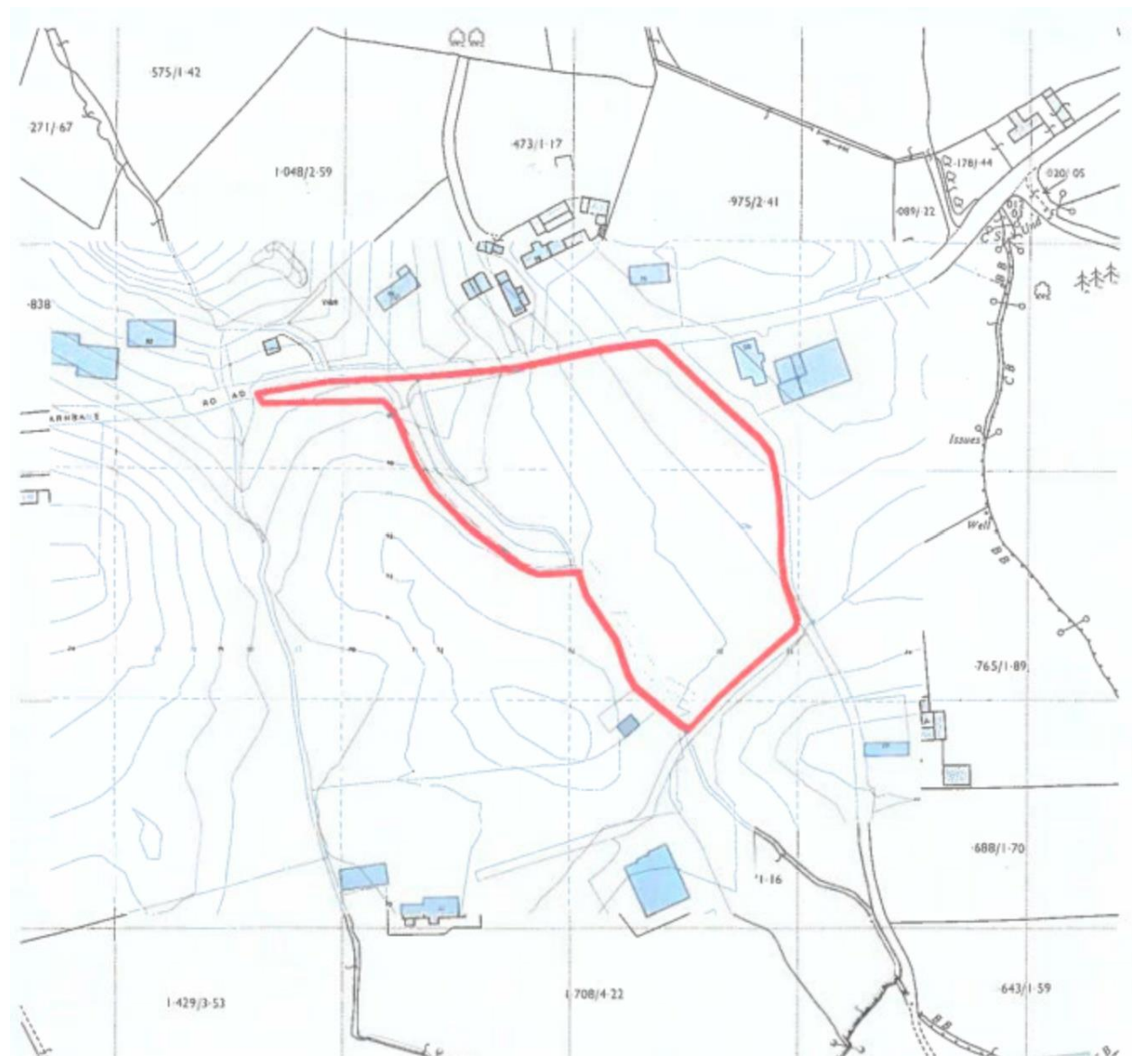
101. The recommendation is to refuse Planning permission as the proposal is not in accordance with the requirements of Policies COU1, COU8, COU15 and COU16 of the Lisburn and Castlereagh City Council Plan Strategy.

## Refusal Reasons

102. The following reasons for refusal are proposed:

- The proposal is contrary to Policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy, in that it is not a type of development which in principle is considered to be acceptable in the countryside.
- The proposal is contrary to Policy COU8 of the Lisburn and Castlereagh City Council Plan Strategy, in that the proposed development would add to a ribbon of development along Carnbane Road.
- The proposal is contrary to Criteria (f) and (g) of Policy COU15 of the Lisburn and Castlereagh City Council Plan Strategy, in that the design of the proposed dwelling and garage is inappropriate for the site and its locality and the proposed ancillary works do not integrate with their surroundings.
- The proposal is contrary to Criteria (c), (e) and (h) of Policy COU16 of the Lisburn and Castlereagh City Council Plan Strategy, in that the proposed development, if permitted, would not respect the traditional pattern of settlement exhibited in that area, result in an adverse impact on the rural character of the area and the impact of ancillary works would have an adverse impact on rural character.

### Site Location Plan – LA05/2021/1064/F





## Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee Meeting	03 February 2025
Committee Interest	Local Application (Called In) – Addendum
Application Reference	LA05/2023/0107/F
Proposal Description	Dwelling and garage
Location	Site between 35 and 37 Glebe Road, Annahilt, Hillsborough
Representations	None
Case Officer	Cara Breen
Recommendation	<b>Refusal</b>

### Background

1. This application was included on the Schedule of Applications for consideration by the Committee at a meeting on 06 January 2025. The recommendation was to refuse planning permission.
2. Following a presentation by officers, Members agreed to defer consideration of the application to allow for a site visit to take place.
3. A site visit took place on 21 January 2025. A separate note of this site visit is provided as part of the papers.

### Further Consideration

4. The Head of Planning & Capital Development showed Members the site location plan and placed the proposed development in the context of the buildings surrounding the site. Members viewed the site from verge on the main road in front of the site.
5. Members were reminded that there was a previous history of approval at the site for a single infill dwelling. However, no application for approval of Reserved Matters had been made. The application for full permission had been submitted after the period for Reserved Matters was time expired.
6. The Head of Planning and Capital Development confirmed that the officer had considered the proposal afresh under new policy. The application no longer

met policy requirement for infill as the gap was not large enough to accommodate two dwellings but the minimum of four buildings along the frontage was met.

7. In respect of the refusal reason relating to Policy COU2 New Dwellings in Existing Clusters, the Head of Planning & Capital Development read out the criteria requirements of the policy for the Members.
8. In response to a query about the requirement for the proposed dwelling to be associated with a focal point (normally a community building) the Head of Planning & Capital Development advised that 'associated with' was defined in the justification and amplification of the policy as being visually significant within the cluster and having a different form and use than other buildings within the cluster.
9. The Head of Planning & Capital Development confirmed the applicant was relying on a nearby farm shop as the focal point; however, it was not a community or social building and could not be seen from the site and was not within the cluster. Members had the opportunity to view the location of this building in the context of the site.

### Conclusion and Recommendation

10. The purpose of the site visit was to afford Members an opportunity to visit the site and observe the proposed development in its context.
11. A query was raised about the width of the site frontage and the capacity of the site to accommodate dwellings. Details of the calculations used to inform the advice to Members on plot frontages can be found at paragraphs 55 to 60 of the main report.
12. The advice previously offered that planning permission should be refused is not changed. This is not an infill or cluster opportunity and the information contained in this addendum should be read in conjunction with the main DM Officer's report presented to the Committee on 06 January 2025.

**LISBURN & CASTLEREAGH CITY COUNCIL****Report of a Planning Committee Site Visit held at 2.49 pm on Tuesday, 21 January, 2025 on a Site Between 35 and 37 Glebe Road, Annahilt, Hillsborough****PRESENT:**

Councillor S Burns (Vice-Chair)

Aldermen O Gawith and J Tinsley

Councillors D J Craig, U Mackin and A Martin

**IN ATTENDANCE:**

Head of Planning & Capital Development (CH)

Member Services Officer (CR)

Apologies for non-attendance were submitted by the Chair, Alderman M Gregg, and Councillors P Catney, G Thompson and N Trimble.

The site visit was held in order to consider the following application:

LA05/2023/0107/F – Dwelling and garage on a site between 35 and 37 Glebe Road, Annahilt, Hillsborough

This application had been presented for determination at the meeting of the Planning Committee held on 6 January 2025. The Committee had agreed to defer consideration to allow for a site visit to take place.

The Head of Planning & Capital Development showed Members the site location plan and placed the proposed development in the context of the buildings surrounding. Members viewed the site from verge on the main road in front of the site.

In a response to a query, the Head of Planning & Capital Development reminded Members that there was a previous history of approval at the site for a single infill dwelling. However, no application for approval of Reserved Matters had been made. The application for full permission had been submitted after the period for Reserved Matters was time-expired. He further confirmed that the officer had considered the proposal afresh under new policy. The application no longer met policy requirement for infill. The minimum of 4 buildings was met but the gap was not large enough to accommodate two dwellings.

In respect of the other reasons for refusal and to allow the Members to consider whether the site was part of a cluster, the Head of Planning & Capital Development read out the criteria requirements of COU2 New Buildings in Existing Clusters.

In response to a query about the requirement for the proposed building to be associated with a focal point (normally a community building) he advised that 'associated with' was defined in the justification and amplification of the policy as being visually significant within the cluster and having a different form and use than other buildings within the cluster.



He confirmed the applicant was relying on a nearby farm shop as the focal point; however, it was not a community or social building, and could not be seen from the site and was not within the cluster. Members had the opportunity to view the location of this building in the context of the site.

The Head of Planning & Capital Development agreed to ensure that the Planning Committee report in respect of this application would include adequate detail on actual frontages of existing buildings.

There being no further business, the site visit was terminated at 3.09 pm.

**Lisburn & Castlereagh City Council**

Planning Committee Report	
Date of Committee	06 January 2025
Committee Interest	Local Application (Called-In)
Application Reference	LA05/2023/0107/F
Date of Application	1 <sup>st</sup> February 2023
District Electoral Area	Downshire East
Proposal Description	Dwelling and garage
Location	Site between 35 and 37 Glebe Road, Annahilt, Hillsborough, BT26 6NE
Representations	None
Case Officer	Cara Breen
Recommendation	Refusal

**Summary of Recommendation**

1. This application is categorised as a Local Application. It is presented to the Planning Committee in accordance with the Protocol for the Operation of the Planning Committee in that it has been Called-In.
2. The application is recommended for refusal as it is considered that the proposed development is contrary to Policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy, in that the proposed development is not a type of development which in principle is acceptable in the countryside.
3. The application is presented as a part of a cluster of development but also considered to be contrary to criteria (b) and (c) of Policy COU2 of the Lisburn and Castlereagh City Council Plan Strategy, in that the cluster of development does not appear as a visual entity in the local landscape and the cluster is not associated with a focal point.
4. In addition, the proposal is contrary to Policy COU8 of the Lisburn and Castlereagh City Council Plan Strategy, in that the development, if approved, would add to a ribbon of development along Glebe Road. There is not a small gap sufficient to accommodate two dwellings whilst respecting the existing pattern of development and that is appropriate to the existing plot size and width.

Furthermore, the buildings forming the substantial and continuously built-up frontage are not visually linked.

5. The development proposal is contrary to Criteria (c) and (e) of Policy COU16 of the Lisburn and Castlereagh City Council Plan Strategy, in that the proposed development would, if permitted, not respect the traditional pattern of settlement and would have an adverse impact on the rural character of the area.

## Description of Site and Surroundings

### Site

6. The application site is located on lands between No. 35 and No. 37 Glebe Road, Annahilt, Hillsborough and is a 0.18-hectare rectangular shaped parcel of vacant land. The application site was not occupied by any buildings at the time of site inspection and there is currently no vehicular access to the land from Glebe Road.
7. The northwestern boundary is defined by a 1.2-metre-high timber post and rail fence. The remaining boundaries are defined by dilapidated 1.2-metre-high timber post and wire fencing.
8. In relation to topography, the application site is relatively level in gradient throughout.

### Surroundings

9. The application site has dwellings either side at No. 33 and No. 35 Glebe Road to the north and No. 37 and No. 39 Glebe Road to the south.
10. The area beyond this is mainly rural in character and predominantly agricultural in use, characterised by drumlin topography. The village of Annahilt is approximately 500 metres to the south.

## Proposed Development

11. Full planning permission is sought for a proposed dwelling and garage.

## Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2018/0212/O	Proposed infill dwelling, renewal of existing approval 2009/0122 and S/2013/0664/O	Site between No. 35 Glebe Road and No. 37 Glebe Road Hillsborough	Permission Granted
S/2013/0664/O	Proposed infill dwelling - renewal of existing approval 2009/A0122.	Site between No. 35 Glebe Road and No. 37 Glebe Road Annahilt	Permission Granted
S/2009/0464/O	Site for 'in-fill' dwelling	Lands contained between 37 & 35 Glebe Road Annahilt BT26 6LE	Approval on Appeal
S/1999/0198	Site for dwelling (outline)	Site between No. 35 Glebe Road and No. 37 Glebe Road	Permission Refused

**Consultations**

13. The following consultations were carried out:

Consultee	Response
DAERA Water Management Unit	No objection
NI Water	No Objection
DfC Historic Environment Division	No Objection
LCCC Environmental Health	No Objection
DfI Roads	No Objection

**Representations**

13. No representations have been received by the Council to date in relation to the proposal following the statutory neighbour notification and advertisement process.

### Local Development Plan

14. 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.

### Plan Strategy 2032

15. It is stated at Part 1 of the Plan Strategy that:

*'Transitional arrangements will apply in relation to the existing Plan designations. The existing Development Plans which remain in effect for different parts of the Council area are set out in Chapter 2 (Existing Development Plans). Following adoption the Development Plan will be the Plan Strategy and any old Development Plan, with the Plan Strategy having priority in the event of a conflict. Regulation 1 states that the old Development Plans will cease to have effect on adoption of the new LDP at Local Policies Plan (LPP) stage.*

*The Belfast Metropolitan Area Plan (BMAP) was intended to be the Development Plan on its adoption in September 2014. This Plan was subsequently declared unlawful following a successful legal challenge and therefore remains in its entirety un-adopted.*

*Draft BMAP (November 2004) in its pre-inquiry form remains a material consideration in conjunction with recommendations of the Planning Appeals Commission Public Local Inquiry Reports.'*

16. In accordance with the transitional arrangements, the existing Local Development Plan is the Plan Strategy and the Lisburn Area Plan 2001 (LAP).
17. The site is located within the Green Belt in the LAP. No other site-specific designation applies to the site.
18. Draft BMAP (2015) remains a material consideration. In the last revision to draft BMAP in 2014, the application site is located in the open countryside, out with any designated settlement limit. No other site-specific designation applies that needs to be taken account of.

19. This application is for new housing in the open countryside. The strategic policy for new housing in the countryside is set out in Part 1 of the Plan Strategy.
20. Strategic Policy 09 Housing in the Countryside states:

*The Plan will support development proposals that:*

- (a) *provide appropriate, sustainable, high quality rural dwellings, whilst protecting rural character and the environment*
- (b) *resist urban sprawl in the open countryside which mars the distinction between the rural area and urban settlements*
- (c) *protect the established rural settlement pattern and allow for vibrant sustainable communities.*

### **Development in the Countryside**

21. This is an application for a single dwelling in the open countryside.

#### Development in the Countryside

22. Policy COU1 – Development in the Countryside 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.*

*Details of operational policies relating to acceptable residential development proposals are set out in policies COU2 to COU10.*

*Details of operational policies relating to acceptable non-residential development proposals are set out in policies COU11 - COU14.*

*There are a range of other non-residential development proposals that may in principle be acceptable in the countryside. Such proposals must comply with all policy requirements contained in the operational policies, where relevant to the development.*

*Any proposal for development in the countryside will also be required to meet all of the general criteria set out in Policies COU15 - COU16.’*

#### New Dwellings in Existing Clusters

23. The applicant has made a submission that this site is in an existing cluster and meets the requirements of Policy COU2 – New Dwellings in Existing Clusters which states:

*‘Planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:*

*a) the cluster of development lies outside of a farm and consists of four or more established buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) forming a close grouping of buildings, of which at least three are dwellings*

*b) the cluster appears as a visual entity in the local landscape*

*c) the cluster is associated with a focal point such as a social/community building*

*d) the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster*

*e) 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 through the creation of ribbon development.’*

#### Infill/Ribbon Development

24. There is a previous history of approval for an infill dwelling at this site. Policy COU8 – Infill/Ribbon Development states:

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

*Exceptionally, there may be situations where the development of a small gap, sufficient to accommodate 2 dwellings within an otherwise substantial and continuously built-up frontage, may be acceptable. For the purpose of this policy a substantial and continuously built-up frontage is a line of 4 or more buildings, of which at least 2 must be dwellings, excluding domestic ancillary buildings such as garages, sheds and greenhouses, adjacent to a public road or private laneway.*

*The proposed dwellings must respect the existing pattern of development in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings that constitute the frontage of development. Buildings forming a substantial and continuously built up frontage must be visually linked.’*

### Integration and Design of Buildings in the Countryside

#### 25. Policy COU15 - Integration and Design of Buildings in the Countryside states:

*'In all circumstances proposals for development in the countryside must be in accordance with and sited and designed to integrate sympathetically with their surroundings and of an appropriate design.*

*A new building will not be permitted if any of the following apply:*

- a) *it is a prominent feature in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop*
- d) *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*
- e) *it relies primarily on the use of new landscaping for integration*
- f) *the design of the building is inappropriate for the site and its locality*
- g) *ancillary works do not integrate with their surroundings.'*

### Rural Character and other Criteria

#### 26. Policy COU16 – Rural Character and other Criteria states.

*'In all circumstances proposals for development in the countryside must be in accordance with and must not cause a detrimental change to, or further erode the rural character of an area.*

*A new development proposal will be unacceptable where:*

- a) *it is unduly prominent in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it does not respect the traditional pattern of settlement exhibited in that area*
- d) *it mars the distinction between a settlement and the surrounding countryside, or otherwise results in urban sprawl*
- e) *it has an adverse impact on the rural character of the area*
- f) *it would adversely impact on residential amenity*
- g) *all necessary services, including the provision of non mains sewerage, are not available or cannot be provided without significant adverse impact on the environment or character of the locality*
- h) *the impact of ancillary works (with the exception of necessary visibility splays) would have an adverse impact on rural character*
- i) *access to the public road cannot be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.'*



## Waste Management

### Treatment of Waste Water

27. A private waste water treatment works is proposed for the development. Policy WM2 - Treatment of Waste Water states:

*'Development proposals to provide mains sewage Wastewater Treatment Works (WwTWs) will be permitted where it is demonstrated to the Council there is a need for new or extended capacity requirements and the new facilities comply with the requirements of Policy WM1.*

*Development relying on non mains sewage treatment will only be permitted where it is demonstrated to the Council and its statutory consultees that there is sufficient capacity to discharge treated effluent to a watercourse and that this will not create or add to a pollution problem or create or add to flood risk.'*

## Access and Transport

### Access to Public Roads

28. A new vehicular access is proposed onto a public road. Policy TRA2 – 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) *it will not prejudice road safety or significantly inconvenience the flow of vehicles; and,*
- b) *it does not conflict with Policy TRA3 Access to Protected Routes.*

*Consideration will also be given to the nature and scale of the development, character of existing development, the contribution of the proposal to the creation of a quality environment, 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.'*

## Historic Environment and Archaeology

### Development affecting the Setting of a Listed Building

29. This site falls within the consultation zone of the tower of the former Annahilt Church of Ireland Church of the Ascension Church of Ireland (HB19/06/004). Policy HE9 – Development affecting the Setting of a Listed Building states:

*‘Proposals which would adversely affect the setting of a listed building will not be permitted. Development proposals will normally only be considered appropriate where all the following criteria are met:*

- a) the detailed design respects the listed building in terms of scale, height, massing and alignment*
- b) the works and architectural details should use quality materials and techniques (traditional and/or sympathetic) in keeping with the listed building*
- c) the nature of the use proposed respects the character of the setting of the building.’*

### **Regional Policy and Guidance**

30. The SPPS was published in September 2015. It is the most recent regional policy and it is stated at Paragraph 1.5 that:

*‘The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals.’*

31. 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.’*

32. 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.’*

33. The SPPS remains a material consideration of significant weight irrespective of what stage the Local Development Plan making process is at. The policies in the Plan Strategy have been drafted to be consistent with the SPPS.

### ***Building on Tradition***

34. In relation to development in an existing cluster, Building on Tradition provides a series of sketches of what may be acceptable and what would not be acceptable.
35. With regards to Infill development, Building on Tradition guidance notes;
- *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.*
36. It also notes 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.'*
37. Building on Tradition includes infill principles with examples;
- *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

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

38. The policies in PPS 3 are replaced by the Plan Strategy. However, the guidance in Development Control Advice Note 15 – Vehicular Access Standards is retained. It states (Paragraph 1.1).

*‘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**

### **Development in the Countryside**

#### Policy COU1 – Development in the Countryside

39. Whilst it is acknowledged that the proposal description only refers to a dwelling and garage and does not specify under what policy the proposed development is to be considered, it is noted that the submitted application form makes reference to a history of approval for a dwelling under application reference LA05/2018/0212/O. This proposal was granted outline planning permission on 3<sup>rd</sup> May 2019 as a renewal of existing approval for an infill dwelling.
40. This application was received on 26<sup>th</sup> January 2023. It is noted that this was outside the time period for submission of approval of Reserved Matters for the above referenced application.
41. A Direction was issued by the Department for Infrastructure in June 2023 directing the Council to adopt the draft Plan Strategy of the Lisburn and Castlereagh City Council Local Development Plan. A new policy for infill development was proposed which became a material consideration of significant weight.

42. Following adoption of the Lisburn and Castlereagh City Council Plan Strategy on 26<sup>th</sup> September 2023, the retained planning policies in PPS21 have been replaced in full and this proposal is considered afresh.
43. As application LA05/2018/0212/O was received after the period for submission of approval of reserved matters was time expired and as this proposal was assessed in a different planning policy context the earlier planning history is of little material weight.

#### Policy COU8 – Infill/Ribbon Development

44. The initial step is to consider whether the proposal would create or add to a ribbon of development. The Justification and Amplification text of Policy COU8 describes a ribbon as:

*'A ribbon of development cannot be defined by numbers, although, if there are two buildings fronting a road and beside one another, there could be a tendency to ribboning. Most frontages are not intensively built up and have substantial gaps between buildings, giving visual breaks in the developed appearance of the locality. Infilling of these gaps is visually undesirable and, in most cases, creates or adds to a ribbon of development.'*

45. The proposal would engage ribbon development by virtue of the fact that there are two existing dwellings (No. 33 and No. 35) beside each other and fronting Glebe Road immediately to the north east of the application site and two existing dwellings (No. 37 and No. 39) in situ next to each other and fronting Glebe Road directly to the south west of the application site.
46. It is therefore considered that a dwelling on the application site would add to a ribbon of development along the south eastern side of Glebe Road.

#### The issue of exception

47. Whilst the premise of Policy COU8 is that planning permission will be refused for a building which creates or adds to a ribbon of development, it does however advise that there may be exceptions whereby the development of a small gap, sufficient to accommodate two dwellings within an otherwise substantial and continuously built up frontage, may be acceptable. The exceptions test also requires that the proposed dwellings must respect the existing pattern of development in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings and the buildings forming the substantial and continuously built-up frontage must be visually linked.
48. Hence, the exception for infill development is conditional. It is this exceptions test which this application seeks to satisfy.

49. The primary step in determining whether an 'infill' opportunity exists is to identify whether an otherwise substantial and continuously built-up frontage is present on the ground. Policy COU8 states that for the purpose of this policy, a substantial and continuously built-up frontage is a line of four or more buildings, of which at least two must be dwellings (excluding domestic ancillary buildings such as garages, sheds and greenhouses) adjacent to a public road or private laneway.

50. The Justification and Amplification text of Policy COU8 states.

*'For the purposes of this policy, a building's frontage must extend to the edge of the public road or private laneway and not be separated from it by land or development outside of its curtilage.'*

51. Travelling from a south westerly to a north easterly direction along Glebe Road, as you pass Carricknadarrieff Road, lies No. 39 Glebe Road (*Building 1*) to the south eastern side of Glebe Road. No. 39 Glebe Road is composed of a single storey detached domestic dwelling with associated detached domestic garage to the rear. No. 37 Glebe Road (*Building 2*) is located directly to the north east of No. 39 beyond a small private laneway. No. 37 is composed of a modest sized single storey detached dwelling. The application site lies immediately north east of No. 37. To the other side of the application site, No. 35 Glebe Road (*Building 3*) is in situ. No. 35 is occupied by a 1.5 storey detached residential dwelling with detached domestic garage to the rear. No. 33 Glebe Road (*Building 4*) is located directly to the north east of this again. No. 33 consists of a modest sized 1.5 storey detached residential dwelling with associated detached domestic garage. It is noted that the curtilages of all of the above abut Glebe Road and the buildings present a frontage to it.

52. Excluding domestic ancillary buildings, such as the domestic garages, which are precluded from the quantification of a substantial and continuously built-up frontage by Policy COU8, there is a line of four or more buildings, of which at least two are dwellings, adjacent to a public road or private laneway. Therefore, there is an existing substantial and continuously built-up frontage present on the ground. This frontage is composed of Building 1, Building 2, Building 3 and Building 4 as identified above.

53. The first part of the Exceptions Test of Policy COU8 has therefore been satisfied.

54. The second step in the process of determining whether an infill opportunity exists or not is to identify if the gap site is small. For the purpose of policy that is; *'sufficient to accommodate two dwellings.'* The third element that is required in order to qualify as an infill site is that the existing pattern of development must be respected in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings that constitute the frontage of development.

55. Policy COU8 relates to the gap between road frontage buildings. The gap is measured between the two closest existing buildings each side of the application site.
56. In this instance, this is the gap between the existing dwelling in situ at No. 37 Glebe Road and the existing dwelling in situ at No. 35 Glebe Road. This gap measures circa 43 metres building to building.
57. Page 71 of Building on Tradition advises that when a gap is more than twice the length of the average plot width in the adjoining ribbon, it is often unsuitable for infill with two new plots.
58. The existing plot widths of No. 33, No. 35, No. 37 and No. 39 Glebe Road are approximately 74 metres, 24 metres, 19 metres and 34 metres respectively. This equates to an average existing plot width in the frontage of circa 38 metres.
59. The guidance offered by Building on Tradition would indicate that in the instance of this particular frontage, the gap would need to equate to approximately 76 metres to sufficiently accommodate two dwellings. It is noted that this application pertains to a single dwelling only, which Policy COU8 precludes.
60. Taking this into account, it is considered that the second step in the process of determining whether an infill opportunity exists has not been met, in that there is not a small gap sufficient to accommodate two dwellings.
61. In terms of assessing whether the existing pattern of development would be respected, the Justification and Amplification text states;  
  
*'Assessment of what constitutes an existing pattern of development must take account and have regard to the size and scale of buildings, their siting and position in relation to each other and the size and width of individual plots upon which they are situated.'*
62. It is acknowledged that the existing frontage of development does not have a consistent building line. No. 33 and No. 35 Glebe Road follow a similar building line, whilst No. 37 Glebe Road is sited closer to the roadside and No. 39 Glebe Road is set back into the site. As per the Location Plan (Proposed), the proposed dwelling would have a building line akin to that of No. 33 and No. 35 Glebe Road. Therefore, there are no concerns in relation to the siting of the proposed dwelling respecting the existing pattern of development.
63. In relation to design, the proposed dwelling is single storey in stature. The proposed dwelling is linear in footprint and is of simple rural form. An off-centred

single storey storm porch projects from the front elevation, while a single storey dual pitched sunroom projects from the south western side gable of the dwelling. 2no. chimney stacks project from the ridgeline of the dwelling and from the ridgeline of the sunroom. Window openings are predominantly vertical in emphasis. The proposed dwelling would occupy a footprint of circa 193 metres squared and it would present a dual pitch with a ridge height of approximately 5.7 metres above finished floor level (FFL). The proposed schedule of external finishes includes self-finished render and stonework (to porch and sunroom as indicated) for the external walls, flat profiled roof tiles and double glazed PVC window units.

64. The existing dwellings in situ at No. 33, No. 35, No. 37 and No. 39 Glebe Road are all single storey/1.5 storey in stature (modest in size/scale) and are relatively simple in design with render finishes. Taking this into account, it is contended that the proposed dwelling would respect the existing pattern of development in the existing frontage.
65. Size and scale are synonyms and pertain to the dimensions of the proposed dwelling. The existing dwellings at No. 33, No. 35, No. 37 and No. 39 Glebe Road range from single storey to 1.5 storey. The proposed dwelling would have a ridge height of circa 5.7 metres above FFL and would accommodate a single storey of accommodation. It would occupy a footprint of approximately 193 metres squared. As per the Proposed Location Plan, the proposed dwelling would occupy a similar footprint to the existing dwellings in the frontage. Taking this into account, there are no concerns in respect to the development proposal respecting the existing pattern of development in the frontage in terms of size and scale.
66. With regards to plot size, No. 33, No. 35, No. 37 and No. 39 Glebe Road have approximate plot sizes of; 0.45 hectares, 0.19 hectares, 0.13 hectares and 0.33 hectares respectively. This equates to an average plot size within the frontage of circa 0.28 hectares. The application site has a plot size of approximately 0.18 hectares. Divide this into two to accommodate two dwellings as required by Policy COU8 would result in two individual plot sizes in the region of 0.09 hectares each. This would be at odds with the average plot size in the frontage.
67. In terms of width of existing plots, No. 33, No. 35, No. 37 and No. 39 Glebe Road have approximate plot widths of; 74 metres, 24 metres, 19 metres and 34 metres respectively. This equates to an average plot width in the frontage of circa 38 metres. The application site has a plot width of approximately 26 metres. Divide this into two to facilitate two dwellings as required by Policy COU8 would equate to two individual plot widths of circa 13 metres each. This would be at odds with the average existing plot width in the frontage.



68. Therefore, it is contended that the proposal would not meet the third component of the Exceptions Test, in that the application would not respect the existing pattern of development in terms of plot size and width.
69. The fourth and final element of the Exceptions Test of Policy COU8 is that the buildings forming the substantial and continuously built-up frontage must be visually linked.
70. Standing outside the application site facing the site, it is not considered that there is a visual linkage of No. 33, No. 35, No. 37 and No. 39 Glebe Road together due to the band of mature conifer trees to the boundary of No. 35 and No. 33 and the orientation of the dwellings.
71. Taking all of the above into account, it is considered that the proposal does not satisfy the Exceptions Test of Policy COU8 as there is not a small gap sufficient to accommodate two dwellings. Furthermore, the proposed scheme would not be appropriate to the existing plot size and width. In addition, there is no visual linkage between the existing buildings in the frontage.

#### Policy COU2 – New Dwellings in Existing Clusters

72. The agent argues that the proposal is also in accordance with the requirements of policy COU 2 of the Plan Strategy documents.
73. Policy COU2 of the Lisburn and Castlereagh City Council Plan Strategy states that Planning permission will be granted for a dwelling at an existing cluster of development provided all of the five criteria are met.
74. Criterion (a) of Policy COU2 requires that the cluster of development lies outside of a farm and consists of four or more established buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) forming a close grouping of buildings, of which at least three are dwellings.
75. In support of the argument that the proposed development could qualify under Policy COU2, the Agent (at the request of the Council in December 2023) submitted a concept plan (dated November 2024). This identifies a number of shaded buildings within a circle drawn by the Agent. Whilst it is considered that there is an existing cluster of development in the immediate vicinity of the application site, it does not extend to the radius alluded to by the Agent. Whilst policy does not define a cluster as such, Criterion (a) indicates that it is a '*close grouping of buildings*'. The radius identified by the Agent includes the built-up frontage to the northern side of Carricknadarrieff Road, the farm complex at No. 8 Carricknadarrieff Road (opposite this frontage) and the farm shop opposite the junction of Carricknadarrieff Road with Glebe Road. However, it is noted that these

buildings are notably removed from the buildings to the northern part of the circle identified by the Agent.

76. The buildings to the northern part of the circle identified by the Agent include, the dwelling at No. 30 Glebe Road, and the dwellings at No. 33, No. 35, No. 37 and No. 39 Glebe Road. The application site is located between No. 35 and No. 37. The Council consider these buildings alone to be the extent of the cluster. This cluster of development lies outside of a farm and consists of four or more established buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) forming a close grouping of buildings, of which at least three are dwellings.
77. Therefore, it is considered that Criterion (a) has been met but not for the same reasons put forward by the agent.
78. Criterion (b) of Policy COU2 requires that the cluster of development appears as a visual entity in the local landscape. The Justification and Amplification text defines a visual entity in the local landscape as;

*'a collective body of buildings, separated from the countryside when viewed from surrounding vantage points.'*

79. Taking the existing mature band of vegetation to the northern boundary of No. 33 Glebe Road into account, in addition to the large mature conifer trees to the boundary of No. 33 and No. 35 Glebe Road and variation in the sitings of the dwellings within their individual plots, it is not considered that the cluster appears as a visual entity when travelling in a northerly or southerly direction along Glebe Road, nor when travelling along Carricknadarrieff Road or New Road on approach to the cluster.
80. The development proposal is therefore considered to be contrary to Criterion (b) of Policy COU2.
81. Criterion (c) of Policy COU2 prescribes that the cluster is associated with a focal point, such as a social/community building. The Justification and Amplification text of Policy COU2 defines a focal point as;

*'A focal point is defined as a social/community building, usually visually significant within the cluster and which defines a different built form and use to the rest of the buildings within the cluster.'*

82. The Agent identifies the farm shop at No. 46 Glebe Road, which is located opposite the junction of Carricknadarriiff Road with Glebe Road, as the focal point.
83. A shop is not considered to be a focal point as defined by policy; in that it is not a social/community building. Furthermore, it is not located within the cluster as identified by the Council and it forms part of an existing farm, which policy requires that the cluster must lie outside of.
84. The cluster is comprised only of residential dwellings and there are no other buildings within the cluster which would constitute a social/community building.
85. It is therefore considered that the proposal is contrary to Criterion (c) of Policy COU2.
86. Criterion (d) of Policy COU2 requires that the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.
87. It is considered that the identified site would provide a suitable degree of enclosure by virtue of having an existing dwelling in situ directly to the south (No. 37 Glebe Road) and an existing dwelling in situ directly to the north (No. 35 Glebe Road). Both of these dwellings fall within the cluster and therefore the site is bound on at least two sides with other development in the cluster.
88. Taking the above into account, it is therefore considered that Criterion (d) of Policy COU2 has been fulfilled.
89. Criterion (e) of Policy COU2 requires that development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside through the creation of ribbon development.
90. The proposed site is located in between No. 35 Glebe Road and No. 37 Glebe Road. It is therefore considered that development of the site could be absorbed into the existing cluster through rounding off and consolidation and would not significantly alter its existing character or visually intrude into the open countryside through the creation of ribbon development.
91. Taking this into account, it is considered that the development proposal would satisfy Criterion (e) of Policy COU2.

92. Taking all of the above into consideration, the requirements of Criterion (b) and (c) of Policy COU2 of the Lisburn and Castlereagh City Council Plan Strategy have not been met, in that the cluster does not appear as a visual entity in the local landscape and the cluster is not associated with a focal point such as a social/community building. The proposal fails to meet the requirements of policy COU 2.

#### Policy COU15 - Integration and Design of Buildings in the Countryside

93. The proposed dwelling is linear in plan and is of simple rural form. The proposed dwelling would occupy a footprint of 193 metres squared (approx.) and would be single storey in stature with a ridge height (traditional dual pitch) of 5.7 metres (approx.) above finished floor level (FFL). An off-centred single storey dual pitched storm porch would project from the front elevation of the proposed dwelling. A chimney stack (integral chimney breast) would project from the ridgeline of the main part of the dwelling and a chimney stack (integral chimney breast) would project from the ridgeline of the sunroom. The proposed window openings would primarily be of vertical emphasis.
94. The proposed schedule of external finishes includes self-finished render and stonework (to sunroom and porch) for the external walls, flat concrete tiles for the roof and double glazed uPVC window units.
95. The proposed single storey detached garage would occupy a footprint of circa 83 metres squared and it would present a ridge height (dual pitch) of approximately 4.9 metres. The proposed schedule of external finishes includes self-rendered finish for the external walls to match the proposed dwelling, flat concrete roof tiles and double glazed UPVC window units.
96. Taking the single storey nature of the proposal, the mature vegetation in the immediate vicinity and the siting of existing dwellings/buildings which are in close proximity, and which neighbour the application site into account, it is not perceived that the proposed scheme would be a prominent feature in the landscape.
97. It is perceived that the proposal would cluster with the existing buildings directly to the north east and to the south west of the application site.
98. It is considered that the proposed single storey dwelling/garage would blend with the existing mature trees which provide a backdrop to the south east of the application site and those buildings which are currently in situ neighbouring the site.

99. It is noted that Building on Tradition advises that 2-3 existing natural boundaries should be in situ for the purposes of integration of new buildings. Whilst it is acknowledged that the application site does not currently benefit from existing natural boundaries, it is noted that the site benefits from enclosure provided by the existing neighboring buildings which are in situ in close proximity to the application site to the north east and south west. Therefore, there are no concerns in relation to integration/enclosure.
100. While it is acknowledged that new landscaping would be required (as depicted on the Proposed Landscaping Plan), taking the above into account, it is not contended that the proposal would rely primarily on new landscaping for the purposes of integration.
101. The design of the proposed dwelling/garage, to include the proposed schedule of external finishes, has been detailed above and has been assessed against Building on Tradition guidance. The proposed scheme is considered to be of simple rural form and is therefore considered to be appropriate to the rural locality.
102. With regards to proposed ancillary works, the proposal would incorporate the installation of a new vehicular access which would provide access/egress from/to Glebe Road to/from the application site. This access would lead directly onto a short driveway which would run parallel and adjacent to the north eastern boundary of the application site. Small areas of hardstanding which would accommodate the in-curtilage parking/turning of private vehicles are proposed to the front of the dwelling and to the rear of the dwelling/front of the proposed garage. No large suburban style sweeping driveway has been proposed, nor ornate entrance features. Taking the existing/proposed ground levels of the application site into account, it is not perceived that excessive cut and fill (excavation), nor large retaining walls would be required. No large retaining walls have been proposed as part of the scheme. Taking the above into account, it is not contended that the proposed ancillary works would not integrate with their surroundings. It is considered that those existing named features which could aid with the integration of the proposed dwelling/garage could aid with the integration of the proposed ancillary works.
103. Taking all of the above into account, there are no concerns with regards to the proposal insofar as it pertains to Policy COU15.

#### Policy COU16 - Rural Character

104. The proposed dwelling/garage in their own right (if all the other policy tests were met) would not be unduly prominent in the landscape for the reasons outlined at Paragraph 96.
105. As noted previously at Paragraph 97, the proposed dwelling/garage could cluster with an established group of buildings.

106. As per the above, it is noted that the proposed development would not comply with Policy COU2 or the Exceptions Test of Policy COU8. The proposed development would add to a ribbon of development on Glebe Road. It is therefore considered that it would not respect the existing pattern of settlement exhibited in that area.
107. The application site is located wholly within the open countryside, out with any designated settlement limit. It is not considered that the proposed scheme would mar the distinction between a settlement and the surrounding countryside, nor would it result in urban sprawl.
108. As noted, the application would add to a ribbon of development. It is therefore considered that it would have an adverse impact on the rural character of the area.
109. Taking the single storey nature of the proposed scheme and the proposed landscaping and ground levels (in the context of neighbouring ground levels) into account, there are no concerns with regards to potential overlooking to a neighboring property to an unreasonable degree. Taking the single storey nature of the proposed scheme into account, in the context of the siting of neighbouring property, there are no concerns in respect to potential overshadowing of any neighbouring property to an unreasonable degree. Taking the siting of the proposed dwelling/garage within the application site, there are no concerns in relation to any overhanging to a neighbouring property. LCCC Environmental Health were consulted as part of the processing of the application and subsequently responded with no concerns. Therefore, there are no concerns in respect to a potential unreasonable impact on residential amenity.
110. LCCC Environmental Health, DfI Roads, DAERA Water Management Unit, NI Water and DfC Historic Environment Division were consulted as part of the processing of the application. All consultees are content, subject to the inclusion of stipulated conditions/informatives with any approval. Therefore, there are no concerns with regards to necessary services.
111. As per Paragraph 102 above, it is considered that the proposed ancillary works would integrate with the surrounding landscape. Therefore, there are no concerns with regards to the impact of the proposed ancillary works on rural character.
112. The installation of a new vehicular access to/from Glebe Road is proposed as part of the scheme. DfI Roads were consulted as part of the processing of the application and they subsequently responded with no concerns, subject to the inclusion of stipulated conditions/informatives, as per their consultation response, with any approval. Therefore, there are no concerns with regards to vehicular access to the public road.

113. Taking all of the above into account, it is contended that the proposed scheme would not respect the traditional pattern of settlement exhibited in the area (Criterion (c)) and it would, if permitted, have an adverse impact on the on the rural character of the area (Criterion (e)).

## **Access and Transport**

### Policy TRA2 - Access to Public Roads

114. As per the detail submitted with the application, a new vehicular access is proposed to serve the development. This new access would be located to the roadside boundary (adjacent to the north eastern boundary of the application site) and would provide access to/from Glebe Road.
115. Visibility splays of 2.4 metres x 80 metres have been proposed in both directions.
116. It is acknowledged that Glebe Road is not a designated Protected Route.
117. In-curtilage parking/turning space for private vehicles has been depicted on the proposed plans. A domestic garage has also been proposed.
118. DfI Roads were consulted as part of the processing of the application, in their final consultation response, dated 25<sup>th</sup> May 2023, DfI Roads offer no concerns with regards to the proposal.
119. Based on a review of the information and the advice received from the statutory consultee, it is accepted that a new vehicular access to the public road could be accommodated without prejudice to road safety or an inconvenience to the flow of traffic. Therefore, the requirements of policy TRA2 of the Plan Strategy are met.

## **Waste Management**

### Policy WM2 – Treatment of Waste Water

120. The detail submitted with the application (Application Form and Plans) indicates that the source of water supply is to be from Mains sources. Surface water is to be disposed of by mains and foul sewage is to be disposed of via mains also.

121. LCCC Environmental Health were consulted as part of the processing of the application. In their final consultation response, dated 22<sup>nd</sup> March 2023, they state;

*‘Environmental Health advise that there is no new information relating to this application on the Consultee Hub, therefore, the following comment is based on the supporting information currently available on the public portal.*

*Environmental Health have no objection to the above proposed development subject to the following:*

*Proposed conditions:*

*Foul sewage shall be connected to the main sewer with Northern Ireland Water approval and maintained thereafter for the lifetime of the development.*

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

122. Whilst it is acknowledged that LCCC Environmental Health have suggested the above as a condition, it is not considered that it would be enforceable from a Planning remit and therefore it would be applied only as an informative with any approval.
123. DAERA Water Management Unit provided a response on 20<sup>th</sup> February 2023 which refers the Planning unit to Standing Advice which would be included on any approval.
124. Consideration of flood risk is included as a criteria for assessment in Policy WM2. This proposal is not of sufficient scale to require the submission of a flood risk assessment and consent to discharge is required as a parallel consent process. No flood risk is identified.
125. NI Water were also consulted as part of the processing of the application. In their final consultation response of 1<sup>st</sup> March 2023, they offer no objection to the proposal.
126. Based on a review of the information and advice received from consultees, the requirements of Policy WM2 – Treatment of Waste Water are met.

### **Historic Environment and Archaeology**

#### Policy HE9 – Development affecting the Setting of a Listed Building

127. The application site is located in close proximity to a Listed Building HB19 06 005.



128. DfC Historic Environment Division were consulted as part of the processing of the application.

In their final consultation response of 14<sup>th</sup> March 2023, DfC Historic Environment Division (Historic Buildings) state;

*'Historic Environment Division; Historic Buildings has considered the effects of the proposal on the listed building HB19 06 005 and on the basis of the information provided, has no comment to make as the proposal is far enough away from the listed building that it's setting will remain unaffected.'*

129. Taking the above advice into account, and the distance of separation between the listed building and the proposed development it is considered that there is minimal impact on the setting of the listed building and the requirement of policy HE9 is met.

### Conclusions and Recommendation

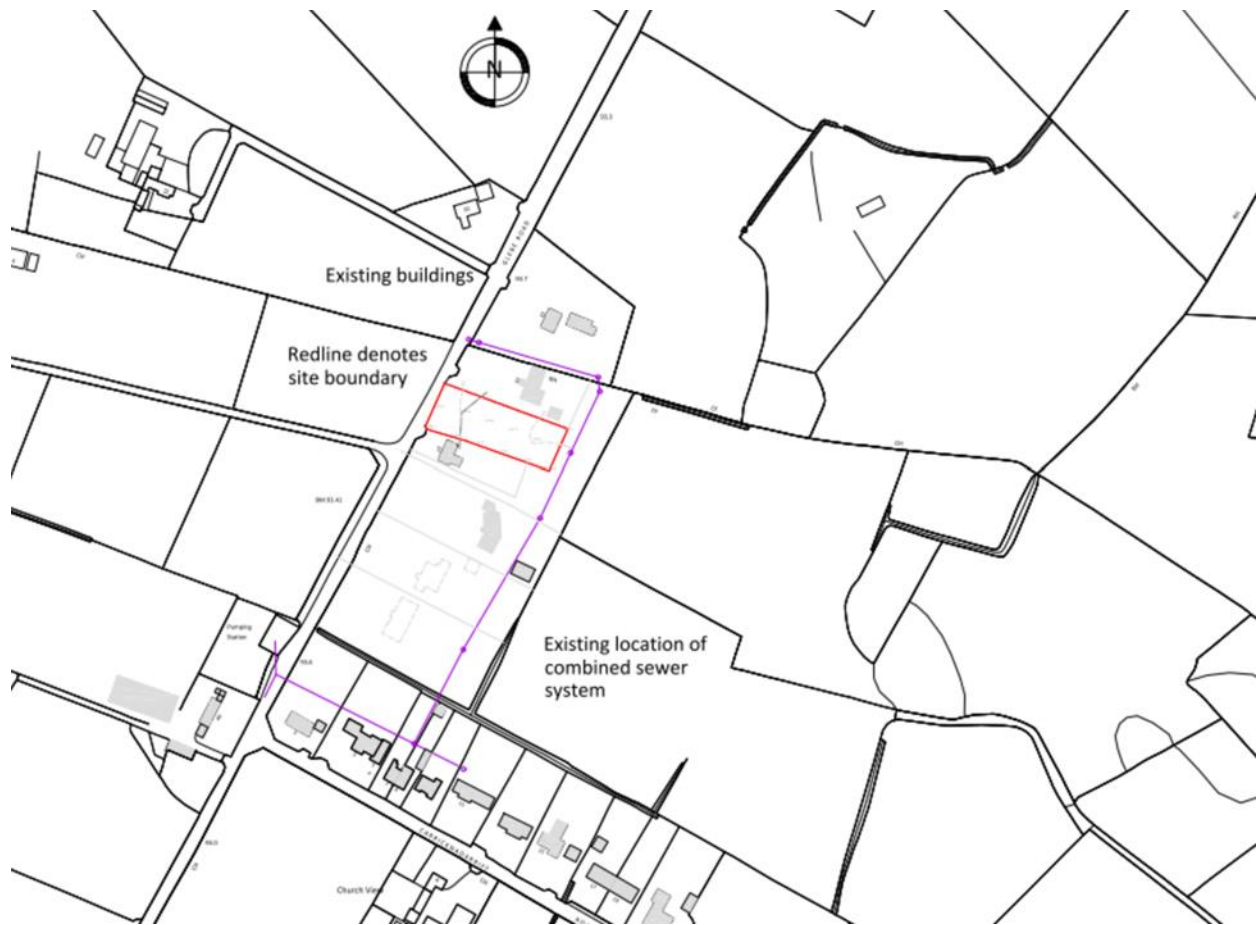
130. The recommendation is to refuse Planning permission as the proposal is not in accordance with the requirements of Policies COU1, COU2, COU8 and COU16 of the Lisburn and Castlereagh City Council Plan Strategy.

### Refusal Reasons

131. The following reasons for refusal are proposed:
- The proposal is contrary to Policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy, in that it is not a type of development which in principle is considered to be acceptable in the countryside.
  - The proposal is contrary to Criteria (b) and (c) of Policy COU2 of the Lisburn and Castlereagh City Council Plan Strategy, in that the cluster of development does not appear as a visual entity in the local landscape and the cluster is not associated with a focal point.
  - The proposal is contrary to Policy COU8 of the Lisburn and Castlereagh City Council Plan Strategy, in that the development, if approved, would add to a ribbon of development along Glebe Road. Furthermore, there is not a small gap sufficient to accommodate two dwellings whilst respecting the existing pattern of development and being appropriate to the existing plot size and width. Furthermore, the buildings forming the substantial and continuously built up frontage are not visually linked.

- The proposal is contrary to Criteria (c) and (e) of Policy COU16 of the Lisburn and Castlereagh City Council Plan Strategy, in that the proposed development would, if permitted, not respect the traditional pattern of settlement exhibited in that area and it would have an adverse impact on the rural character of the area.

### Site Location Plan – LA05/2023/0107/F



## Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee Meeting	03 February 2025
Committee Interest	Local Application (Called In) – Addendum
Application Reference	LA05/2022/0831/F
Proposal Description	Proposed retention of recently constructed agricultural building
Location	Land adjacent to 112 Back Road Drumbo
Representations	None
Case Officer	Joseph Billham
Recommendation	<b>Refusal</b>

### Background

1. This application was initially included on the Schedule of Applications for consideration by the Committee at a meeting on 2 December 2024. The recommendation was to refuse planning permission.
2. Following the presentation by officers, Members agreed to defer consideration of the application to allow for further information to be submitted which the applicant stated he was not aware had been requested.
3. The application was represented by officers on the Schedule of Applications for consideration by the Committee at a meeting on 6 January 2025. The recommendation was unaltered to refuse planning permission.
4. Following a presentation by officers and after representations were heard from the applicant and his advisers, Members agreed to defer consideration of the application to allow for a site visit to take place.
5. A site visit took place on 21 January 2025. A separate note of this site visit is provided as part of the papers.

### Further Consideration

6. Members were reminded that the purpose of the site visit was to allow the Members to observe the development as built (being retrospective) in the context of the adjacent building and the surrounding lands and to consider the integration of the building into the countryside. It was also to allow them to ask

questions about what the officers had taken account in the assessment application.

7. Members walked along Back Road and observed the agricultural building from both directions. It was advised that what should be considered is if the agricultural building clustered with buildings on the farm and if it visually integrated into the open countryside and rural character.
8. One of the issues identified was prominence. Members were requested to apply their own judgement as to whether the building (shed) as built sufficiently grouped with existing buildings.
9. It was confirmed that seasonal changes in vegetation could be considered however any proposed additional landscaping does not normally make the building as constructed acceptable.
10. Clarification was sought on the established nature of the farming activity. It was confirmed the business ID was created in 2020 and the requirement for 6 years registered activity had not been met. It was pointed out the applicant had made a different argument, and Members need to weigh that against the officer's report. Initially this shed was for isolation and over the intervening period was now used to overwinter livestock and store fed.

### Conclusion and Recommendation

11. The purpose of the site visit was to afford Members an opportunity to visit the site and observe the development (shed) in its context.
12. No new issues were raised that required further clarification. The advice previously offered that planning permission should be refused is not changed.
13. The information contained in this addendum should be read in conjunction with the main DM Officer's report and previous addendum presented to the Committee on 06 January 2025.

**LISBURN & CASTLEREAGH CITY COUNCIL****Report of a Planning Committee Site Visit held at 2.10 pm on Tuesday, 21 January, 2025 at Land Adjacent to 112 Back Road, Drumbo****PRESENT:**

Councillor S Burns (Vice-Chair)

Aldermen O Gawith and J Tinsley

Councillors D J Craig, U Mackin and A Martin

**IN ATTENDANCE:**

Head of Planning & Capital Development (CH)

Member Services Officer (CR)

Apologies for non-attendance were submitted by the Chair, Alderman M Gregg, and Councillors P Catney, G Thompson and N Trimble.

The site visit was held in order to consider the following application:

LA05/2022/0831/F – Proposed retention of recently constructed agricultural building on land adjacent to 112 Back Road, Drumbo

This application had been presented for determination at the meeting of the Planning Committee held on 6 January 2025. The Committee had agreed to defer consideration to allow for a site visit to take place.

A Member asked why the building was already in situ. Members were reminded that this was a retrospective application that had first been submitted in August 2022 because of an enforcement case.

Members viewed the site location plan, and the Head of Planning & Capital Development reminded Members that the reason for the site visit was to look at the integration of buildings into the landscape.

Members walked along Back Road and viewed the agricultural building from both directions.

The Head of Planning & Capital Development advised Members that they should consider if the agricultural building clustered with buildings on the farm and if it visually integrated into the open countryside and rural character. Officers had identified key issues in this application in terms of prominence of the building. Members needed to apply their own judgement as to whether the building sufficiently grouped with existing buildings.

A query was raised by a Member about the farming activity. The Head of Planning & Capital Development advised that Officers had considered that the farm was not established, as the first time the business ID had been created was in 2020; therefore, the

requirement for 6 years of registered activity had not been met. The applicant had made a different argument, and Members needed to weigh that against what Officers had reported. The applicant had advised initially that the building had been necessary for the purposes of isolation; however, that had changed in the intervening period – he now overwintered his animals and fed them inside.

In response to a Member's query, the Head of Planning & Capital Development confirmed that Members could take into consideration seasonal changes in vegetation. In a further query a Member asked if they could request additional landscaping.

The Head of Planning & Capital Development advised that they could request additional landscaping but referred them to the part of the policy that the promise of additional landscaping did not normally make an unacceptable building acceptable.

There being no further business, the site visit was terminated at 2.33 pm.

## Lisburn & Castlereagh City Council

Planning Committee	
Date of Committee Meeting	06 January 2025
Committee Interest	Local Application (Called In) – Addendum
Application Reference	LA05/2022/0831/F
Proposal Description	Proposed retention of recently constructed agricultural building
Location	Land adjacent to 112 Back Road, Drumbo
Representations	None
Case Officer	Joseph Billham
Recommendation	<b>Refusal</b>

### Background

1. This application was included on the Schedule of Applications for consideration by the Committee at a meeting on 2 December 2024. The recommendation was to refuse planning permission.
2. Following the presentation by officers, Members agreed to defer consideration of the application to allow for further information to be submitted which the applicant stated he was not aware had been requested.

### Further Consideration

3. Additional information was submitted to the Council on 4 December 2024. The information included:
  - An invoice for a replacement nut bag dated November 31 November 2016
  - A receipt for the purchase of cattle dated 17 December 2018
  - A receipt Triple Plus milk from Britmilk dated October 2019.
  - A copy of an application to NIEA titled “Notification for New or Substantially Reconstructed Organic Nutrient Storage Systems.
  - An amended drawing indicating that the shed will be accessed via the existing access which currently serves the dwelling. The drawing also notes that the current access will be permanently closed.



4. At paragraphs 60-62 of the main officer report it is outlined in detail the reasons why the Council considered that it had not been demonstrated that the agricultural holding had been active and established for a minimum of 6 years. It was noted in the report that that no information had been submitted to demonstrate farming between 2016-2019.
5. The abovementioned receipts have been submitted for the years 2016-2019. Taking the limited information that these receipts provide into account it is considered that this is still not sufficient evidence to demonstrate that the agricultural holding has been active and established for a minimum of 6 years. Criteria (a) of COU 12 has not been met.
6. The information also reinforces the advice contained at paragraphs 55 to 58 of the main report that the building is not necessary for the efficient operation of the holding and is excessive in size for its function.
7. An amended drawing has been submitted indicating that the shed will now be accessed via the existing access which currently serves the dwelling. The drawing also notes that the current access will be permanently closed.
8. DfI Roads have been consulted with the amended drawing and whilst they have not responded to date, as an existing access is being utilised officers would have no objection to this proposed change in principle. Refusal reasons associated with the access including Policy TRA2 criteria (a) and COU16 criteria (i) are withdrawn.
9. A copy of an application to NIEA Water Management Unit (WMU) for the "Notification for New or Substantially Reconstructed Organic Nutrient Storage Systems has been submitted to the Council. However no corresponding information has been provided by the agent indicating that this application is processed and approved. NIEA have been consulted with this additional information, however, to date they have not responded.
10. In the absence of any substantive evidence to demonstrate that the development is not causing impact on the surface water environment a precautionary approach is followed and the proposed reason for refusal is not withdrawn. The existing advice at paragraphs 81 to 84 of the main report still stands.

### **Conclusion and Recommendation**

11. The advice previously offered that planning permission should be refused is not changed. As indicated above the reason for refusal related to the access is withdrawn.
12. The information contained in this addendum should be read in conjunction with the main DM officer's report previously presented to Committee on 02 December 2024.

## Lisburn & Castlereagh City Council

Planning Committee	
Date of Meeting	02 December 2024
Committee Interest	Local Application (Called In)
Application Reference	LA05/2022/0831/F
Date of Application	18 August 2022
District Electoral Area	Downshire East
Proposal Description	Proposed retention of recently constructed agricultural building
Location	Land adjacent to 112 Back Road Drumbo
Representations	0
Case Officer	Joseph Billham
Recommendation	<b>Refusal</b>

### Summary of Recommendation

1. This application is categorised as a local planning application. The application is presented to the Committee in accordance with the Protocol for the Operation of the Planning Committee in that it has been called in.
2. The application is presented to the Planning Committee with a recommendation to refuse in that the contrary to Policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the development in principle is not considered to be acceptable in the countryside nor will it contribute to the aim of sustainable development.
3. In addition, proposal is contrary to Policy COU12 criteria (a) of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that it has not been demonstrated that the agricultural holding is currently active and established for a minimum of 6 years.
4. The proposal is contrary to Policy COU12 criteria (b) of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that it has not been demonstrated that the development is necessary for the efficient use of the agricultural holding.

5. The proposal is contrary to Policy COU12 criteria (c) and (d) of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that the character and scale of the development is not appropriate to its location, and it has not been demonstrated that the proposal visually integrates into the local landscape.
6. The proposal is contrary to Policy COU15 criteria (a) and (b) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the proposal is a prominent feature in the landscape and is not sited to cluster with established group of buildings.
7. The proposal is contrary to Policy COU15 criteria (c) and (e) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the proposal fails to blend with the landform and would rely on the use of new landscaping for integration.
8. The proposal is contrary to Policy COU15 criteria (f) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the design of the building is inappropriate for the site and its locality
9. The proposal is contrary to Policy COU16 criteria (a), (b) and (e) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the proposal is unduly prominent in the landscape and is not sited to cluster with a group of buildings and if permitted would result in an adverse impact on the rural character of the area.
10. The proposal is contrary to Policy COU16 criteria (g) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that it has not been demonstrated that the proposal can provide the necessary services that would not have a significant adverse impact on the environment.
11. The proposal is contrary to Policy COU16 criteria (i) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that it has not been demonstrated how access to the public road can be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.
12. The proposal is contrary to Policy TRA2 criteria (a) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that it has not been demonstrated how the proposal will not prejudice road safety or significantly inconvenience the flow of vehicles

### Description of Site and Surroundings

13. This site is located at the south side of Back Road and to the east of an occupied dwelling at 112 Baack Road.
14. The site measures 0.18 hectares in size and is rectangle in shape. It is accessed from Back Road via a laneway. This leads to an existing agricultural building and hard standing which is set back from the Back Road by approximately 30 metres.

15. The building is single storey with a rectangular footprint and has an open sided structure with a pitched roof. Within the building there is an internal sectional wall. Onside is for housing cattle and the other for storing hay.
16. The finishes on the building include dark blue metal cladding on the roof and part of the exterior walls. The remainder of the exterior walls are of block construction finished in grey render. The open sided structure is supported by steel stanchions.
17. The access laneway has mature hedging on the east side that runs parallel with the lane. The southern and eastern boundaries are defined by post wire fencing and earth mound. The northern boundary consists of hedging.
18. The topography of the site an undulating level but generally falling way from the roadside towards the rear boundary of the site.

### **Surroundings**

19. The site is located in the open countryside and the area is predominantly rural in character. The site is bounded by open agricultural fields to the north, south and east. To the west of the site lies 112 Back Road which is a detached single storey dwelling.

### **Proposed Development**

20. The is full planning permission for the retention of a recently constructed agricultural building.

### **Relevant Planning History**

	<b>Description</b>	<b>Location</b>	<b>Decision</b>
LA05/2017/0351/F	Proposed replacement dwelling and garage	112 Back Road Drumbo Lisburn	Permission granted

## Consultations

21. The following consultations were carried out:

Consultee	Response
DFI Roads	Objections to proposal
NI Water	No objection
Environmental Health	No objection
NIEA	Objections to proposal
DAERA	Business has not been in existence for more than 6 years.

## Representations

22. No letters of representation received during the processing of the planning application.

## Planning Policy Context

### Local Development Plan Context

23. 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.

### Plan Strategy 2032

24. It is stated at Part 1 of the Plan Strategy that:

*Transitional arrangements will apply in relation to the existing Plan designations. The existing Development Plans which remain in effect for different parts of the Council area are set out in Chapter 2 (Existing Development Plans). Following adoption the Development Plan will be the Plan Strategy and any old Development Plan, with the Plan Strategy having priority in the event of a conflict. Regulation 1 state that the old Development Plans will cease to have effect on adoption of the new LDP at Local Policies Plan (LPP) stage.*

*The Belfast Metropolitan Area Plan (BMAP) was intended to be the Development Plan on its adoption in September 2014. This Plan was subsequently declared unlawful following a successful legal challenge and therefore remains in its entirety un-adopted.*

*BMAP in its post-inquiry form was at an advanced stage and therefore remains a material consideration. Draft BMAP (November 2004) in its pre-inquiry form also remains a material consideration in conjunction with recommendations of the Planning Appeals Commission Public Local Inquiry Reports.*

25. In accordance with the transitional arrangements the existing Local Development Plan is the adopted Plan Strategy and the extant development plan which is the Lisburn Area Plan (LAP).

26. The site is located in the countryside in LAP and at page 49 it states:

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

27. Draft BMAP remains a material consideration in draft BMAP (2004) and the subsequent revision to the draft in 2014 this site is also identified as being located in the open countryside.

28. This application is for new agricultural building in the open countryside. The strategic policy sustainable development and good design and positive place [Strategic Policy 01 and 05] states:

29. Strategic Policy 01 Sustainable Development states:

*The Plan will support development proposals which further sustainable development including facilitating sustainable housing growth; promoting balanced economic growth; protecting and enhancing the historic and natural environment; mitigating and adapting to climate change and supporting sustainable infrastructure.*

30. Strategic Policy 05 Good Design and Positive Place Making states:

*The Plan will support development proposals that incorporate good design and positive place-making to further sustainable development, encourage healthier living, promote accessibility and inclusivity and contribute to safety. Good design should respect the character of the area, respect environmental and heritage assets and promote local distinctiveness. Positive place-making should acknowledge the need for quality, place specific contextual design which promotes accessibility and inclusivity, creating safe, vibrant and adaptable places.*

31. The following operational policies in Part 2 of the Plan Strategy also apply.
32. The proposal is for non-residential development in the open countryside. Policy COU 1 – Development in the Countryside 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.*

*Details of operational policies relating to acceptable residential development proposals are set out in policies COU2 to COU10.*

*Details of operational policies relating to acceptable non-residential development proposals are set out in policies COU11 - COU14.*

*There are a range of other non-residential development proposals that may in principle be acceptable in the countryside. Such proposals must comply with all policy requirements contained in the operational policies, where relevant to the development.*

*Any proposal for development in the countryside will also be required to meet all of the general criteria set out in Policies COU15 - COU16.*

33. As explained, this is an application for a farm shed and in accordance with the requirements of Policy COU1, the application falls to be assessed against policies COU12, COU15 and COU16 of the Plan Strategy.

#### COU12 Agricultural and Forestry Development

34. *Planning permission will be granted for development on an agricultural or forestry holding where it is demonstrated that:*

- a) the agricultural or forestry business is currently active and established (for a minimum of 6 years)*
- b) it is necessary for the efficient use of the agricultural holding or forestry enterprise*
- c) in terms of character and scale it is appropriate to its location*
- d) it visually integrates into the local landscape and additional landscaping is provided as necessary*
- e) it will not have an adverse impact on the natural or historic environment*
- f) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.*

*In cases where development is proposed applicants will also need to provide sufficient information to confirm all of the following:*

- there are no suitable existing buildings on the holding or enterprise that can be used*

- *the design and materials to be used are sympathetic to the locality and adjacent buildings*
- *the proposal is sited beside existing farm or forestry buildings.*

*Exceptionally, consideration may be given to an alternative site away from existing farm or forestry buildings, provided there are no other sites available at another group of buildings on the holding, and where:*

- *it is essential for the efficient functioning of the business; or*
- *there are demonstrable health and safety reasons.*

*Planning permission will only be granted for agricultural and forestry buildings/works subject to the criteria stated, as well as the criteria for an active and established business set out under Policy COU10.*

*Prior to consideration of any proposed new building, the applicant will be required to satisfactorily demonstrate that renovation, alteration or redevelopment opportunities do not exist elsewhere on the agricultural or forestry holding. Any new buildings should blend unobtrusively into the landscape.*

*Sufficient information to demonstrate why a location away from the existing agricultural or forestry buildings is essential for the efficient functioning of that agricultural or forestry holding will be required. If justified, the building will be required to visually integrate into the landscape and be of appropriate design and materials. A prominent, skyline or top of slope ridge location will be unacceptable.*

*All permissions granted under this policy will be subject to a condition limiting the use of the building to either agricultural or forestry use as appropriate.*

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

#### 35. Policy COU15 - Integration and Design of Buildings in the Countryside states:

*In all circumstances proposals for development in the countryside must be in accordance with and sited and designed to integrate sympathetically with their surroundings and of an appropriate design.*

*A new building will not be permitted if any of the following apply:*

- it is a prominent feature in the landscape*
- it is not sited to cluster with an established group of buildings*
- it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop*
- 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*
- it relies primarily on the use of new landscaping for integration*
- the design of the building is inappropriate for the site and its locality*
- ancillary works do not integrate with their surroundings.*



### Rural Character and other Criteria

36. Policy COU16 – Rural Character and other Criteria states:

*In all circumstances proposals for development in the countryside must be in accordance with and must not cause a detrimental change to, or further erode the rural character of an area.*

*A new development proposal will be unacceptable where:*

- a) *it is unduly prominent in the landscape*
- b) *it is not sited to cluster with an established group of buildings*
- c) *it does not respect the traditional pattern of settlement exhibited in that area*
- d) *it mars the distinction between a settlement and the surrounding countryside, or otherwise results in urban sprawl*
- e) *it has an adverse impact on the rural character of the area*
- f) *it would adversely impact on residential amenity*
- g) *all necessary services, including the provision of non mains sewerage, are not available or cannot be provided without significant adverse impact on the environment or character of the locality*
- h) *the impact of ancillary works (with the exception of necessary visibility splays) would have an adverse impact on rural character*
- i) *access to the public road cannot be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.*

### **Access and Transport**

37. The proposal involves the alteration of an existing access to the public road. Policy TRA2 – 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) *it will not prejudice road safety or significantly inconvenience the flow of vehicles; and,*
- b) *it does not conflict with Policy TRA3 Access to Protected Routes.*

*Consideration will also be given to the nature and scale of the development, character of existing development, the contribution of the proposal to the creation of a quality environment, 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.*

## Regional Policy and Guidance

38. The SPPS was published in September 2015. It is the most recent planning policy and it is stated at paragraph 1.5 that:

*The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals.*

39. 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*

40. The SPPS remains a material consideration of significant weight irrespective of what stage the Local Development Plan making process is at. The policies in the Plan Strategy have been drafted to be consistent with the SPPS.

## Assessment

### Agricultural and Forestry Development

41. The proposal is seeking retrospective planning permission for an agricultural building at land adjacent to 112 Back Road, Drumbo.
42. A P1C form has been submitted alongside the application. The form states that Mr Neil Reid at No 112 Back Road is the farmer. The P1C form states the farm business was established in 2015. The farm business id (665138) was allocated on 05/02/20. It is claimed that single farm payments are not applied for.
43. Within Question 2 of the P1C Form its stated that Mr Neil Reid has a herd number 393059. It is claimed that animals were kept at 112 Back Road during years 2014 – 2016. This was in the name of Mr Reid's father. His herd number was 390207.
44. Question 3 of the P1C form explains a payslip of cattle sent to W.D Meats in 2022 and invoice of heifer nuts delivered in 2014 to feed calves kept at 112 Back Road during 2014 – 2016. Question 6 advises that no other sites are available at 122 Back Road.
45. No DAERA farm maps have been provided as part of this application, but this is not unusual on farms where single farm payment is not received

46. DAERA have been consulted on the application and confirmed that the business id 665138 for Mr Reid has not been in existence for more than 6 years and that the business ID was first allocated on 04 December 2020.
47. DAERA confirmed in their response that no single farm payment claims have been made in the last 6 years. DAERA answered 'No' to the question is the application site is on land which payments are currently being claimed by the farm business.
48. Supporting information with the application submitted by the agent included:
  - A supporting letter from agent
  - A supporting letter from applicant
  - Aerial imagery at 112 Back Road Drumbo for 2013 and 2014
49. More details regarding farming activity over recent years have been submitted that include:

#### 2013

- April rates bill

#### 2014

- F.S Herron Invoice – Heifer replacement nut bags

#### 2015

- Home/Life Insurance X 2

#### 2020

- June Rates bill
- DARD Letter – Business ID Allocated

#### 2021

- DARD Letter – Move Restricted Herd
- DARD Letter – Options for OTS Cattle
- DARD Notice – Notice prohibiting movement of certain cattle

#### 2022

- NIFCC Certificate – Beef Producer
  - Receipt and cheque for cattle purchase
50. Criteria a) of Policy COU12 states that development on an agricultural holding will be granted where it is demonstrated that the holding is currently active and established for a minimum of 6 years. Under COU10 criteria a) provides more

information on the level of detail required to demonstrate the farm business is active and established. This includes independent, professionally verifiable business accounts, that it has been established for at least 6 years.

51. The agent has provided information on the P1C Form that states Mr Reids own business ID665138 was allocated on 05 February 2020. Mr Reid advised within his statement that it had been decided within the family that Mr Reid needed to farm at a separate location with a separate herd number. No details have been provided of Mr Reid's fathers farm holding. In addition, within policy it refers to a farm/business in the singular therefore only Mr Reids business id 665138 can be taken into account here.
52. The information provided above is not deemed sufficient to demonstrate that the farm business has been active and established for the required period of six years. No information has been submitted to demonstrate active use on the farm holding between 2016 – 2019. The information within the years provided are not deemed sufficient to establish that there is an active business.
53. Therefore, taking the above into consideration criteria a) has not been met as it has not been demonstrated that the agricultural holding has been active and established for a minimum of 6 years.
54. The applicant and agent has provided detail within the supporting statement and documents that the agricultural building was built for housing isolated cattle. The documents provided includes a letter from DAERA confirming that eight diseased cattle were isolating at this location.
55. On DAERAs website within the document 'Biodiversity Code for Northern Ireland Farms' it is stated that:

*New or returning livestock should be placed in isolation for 21 days. This includes animals returning home from shows. The quarantine facility should be a house, which does not share airspace, water supply or drainage with any other animal accommodation, and is a minimum of 3 metres away from other livestock areas. A field or paddock may also satisfy these criteria. If in doubt your own Veterinary Surgeon can advise on suitability.*
56. The shed measures 13 metres by 9 metres and has a ridge height of 5.2 metres. The size of the building is considered excessive in size for the requirement of housing the number of isolated cattle. As advised above a field or paddock may be suitable or in this context a smaller shed may have been erected to accommodate the isolated cattle.
57. The shed is not a building necessary for the efficient use of the agricultural holding. Criteria b) is not met.
58. The building has a pitched roof with a ridge height of 5.2 metre. The material finishes of the building as previously indicated is dark blue cladding, grey

render walls and steel support stanchions. The size and scale of the building appears prominent at this location.

59. The building is excessive in size for its function, for the holding and within the surrounding area. The character and scale of the proposal is not appropriate to its location and criteria c) is not met for the following reason.
60. The building is not visible when travelling west to east as it is screened by the existing dwelling at 112 Back Road. Views of the shed are also broken up by mature trees and hedging adjacent to the access point of 112 Back Road.
61. Although it is set down slightly from the level of the road it remains open from a critical view travelling east to west along Back Road and also in long distance views from Front Road. The building is considered to appear prominent when travelling along Front Road towards the site. The building is considered not to visually integrate into the local landscape. Criteria d) is not met.
62. The proposal is not considered to have an adverse impact on the natural or historic environment. There are no features of natural or historic within the vicinity of the site. Criteria e) is met.
63. In terms of criteria f) the proposal shall not have a detrimental impact on amenity of residents nearby nor any issues arise from noise, smell and pollution. EHO have been consulted and offered no objections.
64. The balance of the criteria associated with Policy COU12 details that the applicant shall provide information to demonstrate there are no suitable buildings on the holding that can be used.
65. The agent has advised that during construction of a replacement dwelling (LA05/2017/0351/F) the existing farm buildings were demolished. Even if the buildings were part of the farm holding these are no longer present on site as confirmed during site inspection. No weight is attached to the fact that there were buildings here in the past.
66. The design and materials as considered above are sympathetic to the rural character of the place and reflect the design of the nearby buildings.

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

67. Turning then to policy COU 15 in terms of criteria (a), it is considered that the proposal is a prominent feature in the landscape when viewed from the junction with Front Road and travelling east to west along Back Road.
68. In terms of criteria (b) the building is not considered to cluster an established group of buildings. The building sited beside a single farm dwelling at 112 Back Road west of the site. Criteria b) is not met.

69. With regard to criteria (c) the building is considered open to critical viewpoints along both Front Road and Back Road when travelling east to west. The building does not blend with the landform and does not have a sufficient backdrop or landscaping to integrate and is considered prominent at this location. The northern boundary comprises of hedgerow and the southern boundary comprises of post wire fence. that would not be suitable to integrate here. New landscaping would be needed to integrate fully here and criteria e) is not met.
70. In terms of criteria (f), the building is rural in nature with corrugated sheeting on the exterior walls and roof. The design of the building is single storey with a standard pitched roof and ridge height of 5.2 metres. It is considered the design of the building is rural in nature however it is appropriate for the site and its locality.
71. In terms of criteria (g), any ancillary works such as the access and land around the development should integrate into the surroundings.
72. The application proposes to use an existing access and runs along part of a hedgerow on site. This access was however due to be closed off as part of the approval LA05/2017/0351/F to limit the number of access points onto the public road.
73. Dfl Roads has been consulted and indicated the existing access is potential in breach of planning permission and a number of additional drawings are required. The existing access runs along existing hedgerow and is considered to integrate with the surroundings.

#### Rural Character

74. In terms of policy COU16, in terms of criteria (a), it is considered that the proposal would be unduly prominent in the landscape.
75. Criteria (b) has been explained in paragraph 72 above the proposal is not considered to a cluster with an established group of buildings. The proposal is beside a single building at 112 Back Road and does not cluster here.
76. In terms of criteria (c), the proposal would respect the traditional pattern of settlement exhibited within the area.
77. In terms of criteria (d), the proposal does not mar distinction between a settlement and surrounding countryside.
78. For the reasons outlined earlier in the report it is considered the proposal would result in an adverse impact on the rural character of the area. Criteria (e) is not met.

79. Residential amenity shall not be adversely impacted on by the proposal. EHO have been consulted and offered no objections. Criteria (f) is met.
80. In relation to criteria g) relating to necessary services it has not been demonstrated that the proposal would not have an adverse impact on the environment by way of surface water environment. NIEA Water Management Unit (WMU) have been consulted and replied stating:

*Water Management Unit has considered the impacts of the proposal on the water environment and on the basis of the information provided are unable to determine if the development has the potential to adversely affect the surface water environment.*
81. WMU were seeking clarification on how manure is to be handled, and details of any tanks shown on the plans. WMU also requested information on the use of the yard.
82. The agent was emailed with the consultation responses on 21/03/2024. The email stated that that agent should provide the information that had been requested from the consultees within 14 days. To date nothing has been received.
83. Based on the information made available to the Council, it has not been demonstrated how the proposal can provide the necessary services, and that the proposal would not have a significant adverse impact on the environment.
84. In terms of criteria i) DfI roads have been consulted on the application and had noted the existing access used as part of this application was due to be permanently closed and the verge reinstated as part of a previous approval. DfI Roads requested additional information relating to ownership, visibility splays and speed surveys.
85. Again, and as stated above, the agent was emailed on 21/03/24 requesting the above information however to date this has not been provided.
86. Therefore, based on the information made available to the Council, it has not been demonstrated how the proposal and access to the public road cannot be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.
87. As advised above the proposal is considered to be contrary to criteria a), b), e), g) and l) of Policy COU16.

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

88. The site plan provided details the site entrance and laneway on the south side of Back Road. The proposal is seeking to use the existing access.

89. As previously indicated above the agent has not submitted the details requested by DFI Roads including additional information relating to ownership, visibility splays and speed surveys.
90. Advice from DfI Roads states that they find the proposal unacceptable as submitted. They express concern in relation to the proposed development and the use of the access which was due to be permanently closed up as a condition of a previous approval. As advised above the agent was emailed on 21/03/2024 and asked to submit additional information which was not received.
91. Therefore, based on the information made available to the Council, it has not been demonstrated that the proposal will not prejudice road safety or significantly inconvenience the flow of vehicles. The proposal is considered to be contrary to criteria a) of Policy TRA 2.

## Conclusions

92. In conclusion the application is recommended to refuse in that the proposal is contrary to Policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the development in principle is not considered to be acceptable in the countryside nor will it contribute to the aim of sustainable development.
93. In addition, proposal is contrary to Policy COU12 criteria (a) of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that it has not been demonstrated that the agricultural holding is currently active and established for a minimum of 6 years.
94. The proposal is contrary to Policy COU12 criteria (b) of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that it has not been demonstrated that the development is necessary for the efficient use of the agricultural holding.
95. The proposal is contrary to Policy COU12 criteria (c) and (d) of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that the character and scale of the development is not appropriate to its location, and it has not been demonstrated that the proposal visually integrates into the local landscape.
96. The proposal is contrary to Policy COU15 criteria (a) and (b) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the proposal is a prominent feature in the landscape and is not sited to cluster with established group of buildings.
97. The proposal is contrary to Policy COU15 criteria (c) and (e) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the proposal fails to blend with the landform and would rely on the use of new landscaping for integration.



98. The proposal is contrary to Policy COU16 criteria (a), (b) and (e) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the proposal is unduly prominent in the landscape and is not sited to cluster with a group of buildings and if permitted would result in an adverse impact on the rural character of the area.
99. The proposal is contrary to Policy COU16 criteria (g) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that it has not been demonstrated that the proposal can provide the necessary services that would not have a significant adverse impact on the environment.
100. The proposal is contrary to Policy COU16 criteria (i) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that it has not been demonstrated how access to the public road can be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.
101. The proposal is contrary to Policy TRA2 criteria (a) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that it has not been demonstrated how the proposal will not prejudice road safety or significantly inconvenience the flow of vehicles.

### Recommendations

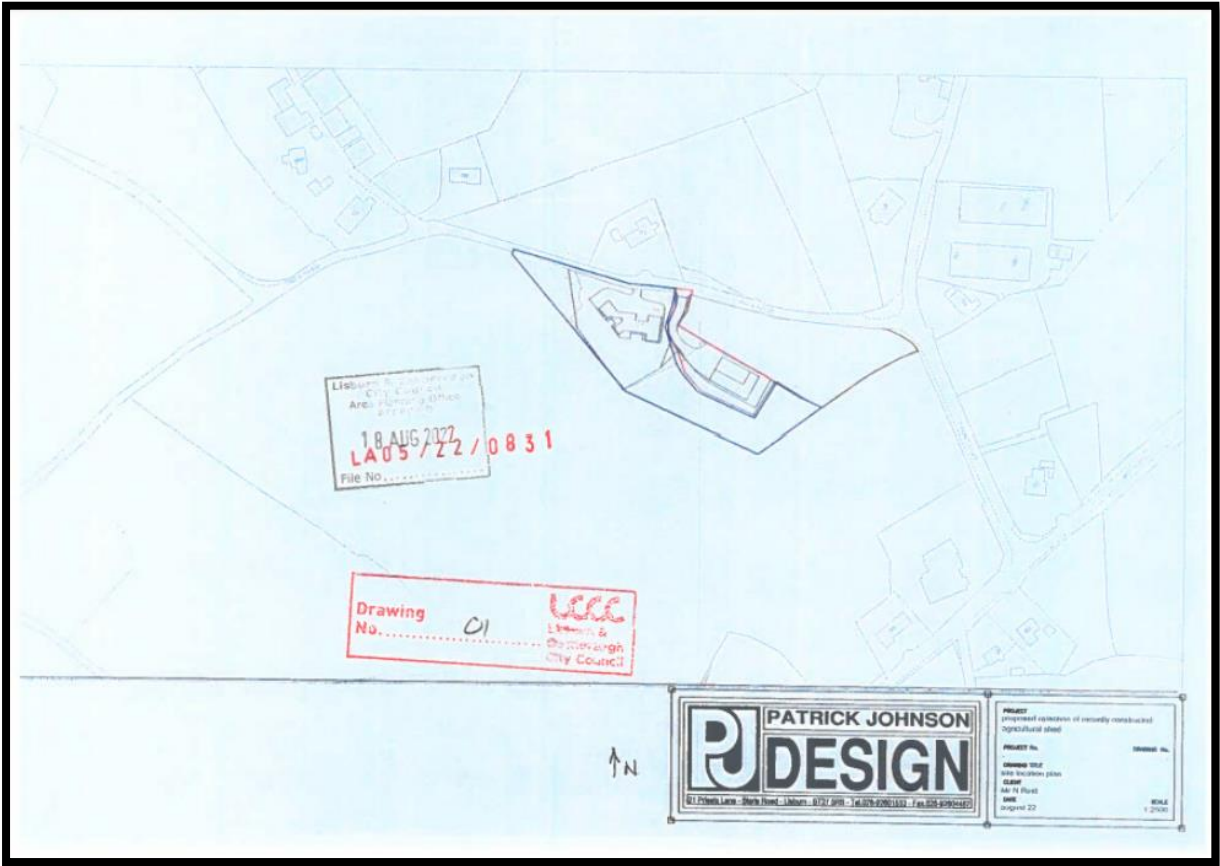
102. It is recommended that planning permission is refused.

### Refusal Reasons

103. The following refusal reasons are recommended:
  - The proposal is contrary to Policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the development in principle is not considered to be acceptable in the countryside nor will it contribute to the aim of sustainable development.
  - The proposal is contrary to Policy COU12 criteria (a) of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that it has not been demonstrated that the agricultural holding is currently active and established for a minimum of 6 years.
  - The proposal is contrary to Policy COU12 criteria (b) of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that it has not been demonstrated that the development is necessary for the efficient use of the agricultural holding.

- The proposal is contrary to Policy COU12 criteria (c) of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that the character and scale of the development is not appropriate to its location.
- The proposal is contrary to Policy COU12 criteria (d) of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that it has not been demonstrated that the proposal visually integrates into the local landscape.
- The proposal is contrary to Policy COU15 criteria (a) and (b) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the proposal is a prominent feature in the landscape and is not sited to cluster with established group of buildings.
- The proposal is contrary to Policy COU15 criteria (c) and (e) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the proposal fails to blend with the landform and would rely on the use of new landscaping for integration.
- The proposal is contrary to Policy COU15 criteria (f) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the design of the building is inappropriate for the site and its locality
- The proposal is contrary to Policy COU16 criteria (a), (b) and (e) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that the proposal is unduly prominent in the landscape and is not sited to cluster with a group of buildings and if permitted would result in an adverse impact on the rural character of the area.
- The proposal is contrary to Policy COU16 criteria (g) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that it has not been demonstrated that the proposal can provide the necessary services that would not have a significant adverse impact on the environment.
- The proposal is contrary to Policy COU16 criteria (i) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that it has not been demonstrated how access to the public road can be achieved without prejudice to road safety or significantly inconveniencing the flow of traffic.
- The proposal is contrary to Policy TRA2 criteria (a) of the Lisburn and Castlereagh City Council Plan Strategy 2032, in that it has not been demonstrated how the proposal will not prejudice road safety or significantly inconvenience the flow of vehicles.

### Site Location Plan – LA05/2022/0831/F.



### Site Layout Plan – LA05/2022/0831/F



Drawing No. ....  
 18 AUG 2022  
 File No. ....

 <b>PATRICK JOHNSON</b> <b>DESIGN</b>	DRAWN BY DATE SCALE SHEET NO.	CHECKED BY DATE SCALE SHEET NO.
	PROJECT NO. PROJECT NAME PROJECT LOCATION PROJECT DATE	

## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Committee Meeting	03 February 2025
Committee Interest	Local (Exceptions Apply)
Application Reference	LA05/2022/0447/F
District Electoral Area	Lisburn & Castlereagh
Proposal Description	Erection of 19 dwellings, consisting of 14 detached dwellings and 5 apartments (including a change of house type at sites 17-21, 26-30 & 37 of previous approval LA05/2018/0196/F), landscaping and all other associated site works
Location	Lands 62 metres southeast of 11 Woodfort Gardens and approximately 47 metres south east of No. 48 Fairfields Meadow Lisburn
Representations	Four
Case Officer	Sinead McCloskey
Recommendation	<b>Approval</b>

### Summary of Recommendation

1. This is a local application. It is presented to the Committee for determination in accordance with the Council Scheme of Delegation in that the application requires a legal agreement to secure the delivery of affordable housing.
2. It is recommended that planning permission is granted as the proposal is in accordance with the requirements of policies HOU1, HOU3 and HOU4 of Part 2: Operational Policies of the Lisburn and Castlereagh City Council Plan Strategy 2032 (subsequently referred to as the Plan Strategy) in that the detailed layout and design of the proposed buildings create a quality residential environment and when the buildings are constructed, they will not adversely impact on the character of the area.
3. The development will also not have a detrimental impact on the amenity of existing residents in properties adjoining the site by reason of overlooking or dominance.
4. Furthermore, the density is not higher than that found in the established residential area and the proposed pattern of development is in keeping with the overall character and environmental quality of the established residential area.

5. It is considered that the proposal is also in accordance with the requirements of policy HOU10 of the Plan Strategy in that adequate provision is made for affordable housing as an integral part of the development. This provision will be subject to a Section 76 Planning Agreement.
6. The proposed complies with policy of TRA1 the Plan Strategy in that the detail demonstrates that an accessible environment will be created through the provision of footways to the wider neighbourhood.
7. The proposal is considered to comply with the requirements of policy TRA7 of the Plan Strategy in that the detail demonstrates that adequate provision for car parking and appropriate servicing arrangements has been provided without prejudice to road safety. It will not inconvenience road users or impede the flow of traffic on the surrounding road network.
8. The proposed development complies with policies FLD 1, FLD2 and FLD 3 of the Plan Strategy. A Drainage Assessment was submitted with the application and included mitigation measures that had previously been agreed. DFI Rivers acknowledge this stating the agreed mitigation measures still apply.

## Description of Site and Surroundings

### Site Context

9. The site is located within the housing development of Fairfields, to the south of Boomers Road. Most of the surrounding land has been developed for housing.
10. On the day of the site visit building works were on-going, with some parts of the site having been cleared in preparation for development. Some houses built adjacent to the site were completed but not occupied at that time. Other parts of the site were occupied with portacabins being used as site offices.
11. The levels on the site rise in a westerly direction. Most of the boundaries were undefined due to the ongoing development works on these lands and adjacent lands.

### Surrounding Context

12. The land is within the settlement of Lisburn and whilst the site remained undeveloped, the areas around it and beyond consist mostly of medium density suburban housing.

## Proposed Development

13. The proposed development comprises the erection of 19 dwellings, consisting of 14 detached dwellings and 5 apartments including change of house type at sites

17-21, 26-30 & 37 previously granted approval under planning application reference LA05/2018/0196/F.

## Relevant Planning History

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

Reference Number	Description	Location	Decision
S/2006/1187/RM	Erection of 245 dwellings comprising 42 detached, 98 semi-detached, 73 town houses and 32 apartments including garages and associated siteworks	Lands between Magherlave Road and Lisburn North Feeder, Lisburn (LD6).	Approval - 11/10/2007
S/2007/1397/F	Residential development consisting of 352 units with associated car parking and landscaping	Lands between Magheralave Road and Lisburn North Feeder, Lisburn	Approval - 16/10/2009
S/2015/0258/F	Erection of 127 No. dwellings, comprising detached and semi-detached dwellings, including garages and all other associated siteworks	Lands located to the east of 54 & 56 Magheralave Road	Approval - 09/12/2016
LA05/2018/0196/F	Erection of 23 dwellings. Comprising of detached, semi detached and apartments, with a change of house type to no 37 (previously approved under ref S/2015/0015/F), landscaping and all other associated site works, previously approved under refs S/2006/1187/RM and S/2007/1397/F (24 no units in total).	Lands 200 m south of 1-21 Woodfort Gardens Magheralave Lisburn BT28 3QN).	Approval – 02/08/2019
LA05/2018/0142/F	Erection of 29 dwellings. Comprising of detached, semi detached dwellings, landscaping and all other associated site works approved under S/2006/1187RM and S/2007/1397/F	Lands 220m south of 1-21 Woodfort Gardens	Approval – 05/09/2019



## Consultations

15. The following consultations were carried out:

Consultee	Response
DfI Roads	No Objection
Historic Environment Division	No Objection
NIHE	No Objection
LCCC Environmental Health	No Objection
NI Water	No Objection
NIEA Water Management Unit	No Objection
DfI River Agency	No Objection

## Representations

16. Four representations were received in objection to this application. The main issues raised included:

- Developing sites 69 & 70 without risk to existing properties
- Loss of light and view
- Spoil the characteristics of settled community
- Close proximity to No. 11 Woodfort Gardens
- Negative impact on landscape – loss of light and privacy
- Increase traffic and road safety
- Access in located in area which property owner has retained
- Overdevelopment
- Disrupt children enjoyment of peace and tranquillity
- These lands were not meant to be developed
- Protection of land under OS1
- Open space should not be built on
- No approval or suggested development of ravine
- Bats and badgers forage in this area – not been fully considered
- Plot 60 should be retained as a retained landscape embankment
- No footways on street
- Street was not designed to accommodate further traffic
- No on street parking for visitors
- Not quality residential living environment
- Plot 60 must be removed
- Crash barrier is already installed
- Detrimental impact on the use of available space

## Local Development Plan

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 the determination of applications must be in accordance with the plan unless material considerations indicate otherwise.

### Plan Strategy 2032

18. It is stated at Part 1 of the Plan Strategy that:

*Transitional arrangements will apply in relation to the existing Plan designations. The existing Development Plans which remain in effect for different parts of the Council area are set out in Chapter 2 (Existing Development Plans). Following adoption the Development Plan will be the Plan Strategy and any old Development Plan, with the Plan Strategy having priority in the event of a conflict. Regulation 1 state that the old Development Plans will cease to have effect on adoption of the new LDP at Local Policies Plan (LPP) stage.*

*The Belfast Metropolitan Area Plan (BMAP) was intended to be the Development Plan on its adoption in September 2014. This Plan was subsequently declared unlawful following a successful legal challenge and therefore remains in its entirety un-adopted.*

*BMAP in its post-inquiry form was at an advanced stage and therefore remains a material consideration. Draft BMAP (November 2004) in its pre-inquiry form also remains a material consideration in conjunction with recommendations of the Planning Appeals Commission Public Local Inquiry Reports.*

19. In accordance with the transitional arrangements, the development plan is the Plan Strategy and the existing Lisburn Area Plan 2001 (LAP). Within LAP the land is zoned for housing as designation LD6.
20. Draft BMAP remains a material consideration. Within draft BMAP 2015 the site is within the settlement limits of Lisburn and is zoned for housing as designation LC 04/12.
21. This designation was carried forward to the 2014 draft of BMAP and renamed as designation LC 03/13. Significant weight is attached to the housing designation in the last revision to draft BMAP in 2014 as this land was a committed housing site partly developed.
22. The strategic policy for Sustainable Development is set out in Part 1 of the Plan Strategy. Strategic Policy 01 – Sustainable Development states that:

*The Plan will support development proposals which further sustainable development including facilitating sustainable housing growth; promoting balanced economic growth; protecting and enhancing the historic and natural*

*environment; mitigating and adapting to climate change and supporting sustainable infrastructure.*

23. The strategic policy for Creating and Enhancing Shared Space and Quality Places is set out in Part 1 of the Plan Strategy. Strategic Policy 03 – Creating and Enhancing Shared Space and Quality Places states that:

*The Plan will support development proposals that contribute to the creation of an environment which is accessible to all and enhances opportunities for shared communities; has a high standard of connectivity and supports shared use of public realm. Good quality housing that supports more balanced communities must offer a variety of house types, sizes and tenures to meet different needs.*

*Creating shared neighbourhoods should provide opportunities for communities to access local employment, shopping, leisure, education and community facilities.*

24. The strategic policy for Good Design and Positive Place Making is set out in Part 1 of the Plan Strategy. Strategic Policy 05 – Good Design and Positive Place Making states that:

*The Plan will support development proposals that incorporate good design and positive place-making to further sustainable development, encourage healthier living, promote accessibility and inclusivity and contribute to safety. Good design should respect the character of the area, respect environmental and heritage assets and promote local distinctiveness. Positive place-making should acknowledge the need for quality, place-specific contextual design which promotes accessibility and inclusivity, creating safe, vibrant and adaptable places.*

25. The strategic policy for Protecting and Enhancing the Environment is set out in Part 1 of the Plan Strategy. Strategic Policy 06 – Protecting and Enhancing the Environment states that:

*The Plan will support development proposals that respect the historic and natural environment and biodiversity. Proposals must aim to conserve, protect and where possible enhance the environment, acknowledging the rich variety of assets and associated historic and natural heritage designations. Proposals should respect the careful management, maintenance and enhancement of ecosystem services which form an integral part of sustainable development.*

26. The strategic policy for Section 76 Agreements is set out in Part 1 of the Plan Strategy. Strategic Policy 07 – Section 76 Agreements states that:

*Development will be required to deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale, impact of the development and the sustainability of its location.*

*A developer will be expected to provide or contribute to the following infrastructure in order to mitigate any negative consequences of development:*

- a) *improvements to the transport network, including walking and cycling*

- routes, public transport or, where necessary appropriate parking provision*
- b) *affordable housing*
- c) *educational facilities and/or their upgrades*
- d) *outdoor recreation*
- e) *protection, enhancement and management of the natural and historic environment*
- f) *community facilities and/or their upgrades*
- g) *improvements to the public realm*
- h) *service and utilities infrastructure*
- i) *recycling and waste facilities.*

27. The strategic policy for Housing in Settlement Limits is set out in Part 1 of the Plan Strategy. Strategic Policy 08 Housing in Settlements states that:

*The Plan will support development proposals that:*

- a) *are in accordance with the Strategic Housing Allocation provided in Table 3*
- b) *facilitate new residential development which respects the surrounding context and promotes high quality design within settlements*
- c) *promote balanced local communities with a mixture of house types of different size and tenure including affordable and specialised housing*
- d) *encourage compact urban forms and appropriate densities while protecting the quality of the urban environment.*

28. The following operational policies in Part 2 of the Plan Strategy also apply.

### **Housing in Settlements**

29. This application is for residential development and policy HOU1 - New Residential Development states that:

*Planning permission will be granted for new residential development in settlements in the following circumstances:*

- a) *on land zoned for residential use*
- b) *on previously developed land (brownfield sites) or as part of mixed-use development*
- c) *in designated city and town centres, and within settlement development limits of the city, towns, greater urban areas, villages and small settlements*
- d) *living over the shop schemes within designated city and town centres, or as part of mixed use development.*

*The above policy applies to all residential uses as set out in Part C of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015 (or as amended).*

30. Policy HOU3 - Site Context and Characteristics of New Residential Development states:

*Planning permission will be granted for new residential development where it will create a quality and sustainable residential environment which respects the existing site context and characteristics. An overall design concept, in accordance with Policy HOU6 must be submitted for all residential proposals and must demonstrate that a proposal draws upon the positive aspects of, and respects the local character, appearance and environmental quality of the surrounding area. Proposals for residential development will be expected to conform to all the following criteria:*

- a) *the development respects the surrounding context, by creating or enhancing a local identity and distinctiveness that reinforces a sense of place, 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) *archaeological, historic environment and landscape characteristics/features are identified and, where appropriate, protected and suitably integrated into the overall design and layout of the development.*

*For new residential development in areas of distinctive townscape character, including Conservation Areas and Areas of Townscape or Village Character, an increased residential density will only be allowed in exceptional circumstances.*

*All development should be in accordance with available published space standards.*

### 31. Policy HOU4 - Design in New Residential Development states:

*Proposals for residential development will be expected to conform to all the following design criteria:*

- a) *the design of the development must draw upon the best local architectural form, materials and detailing*
- b) *landscaped areas using appropriate locally characteristic or indigenous species and private open space must form an integral part of a proposal's open space and where appropriate will be required along site boundaries to soften the visual impact of the development and assist in its integration with the surrounding area*
- c) *where identified as a Key Site Requirement adequate provision is made for necessary local community facilities, to be provided by the developer*
- d) *residential development should be brought forward in line with the following density bands:*
  - *City Centre Boundary 120-160 dwellings per hectare*
  - *Settlement Development Limits of City, Towns and Greater Urban Areas: 25-35 dwellings per hectare*
  - *Settlement Development Limits of Villages and small settlements 20-25 dwellings per hectare.*
  - *Within the above designated areas, increased housing density above the indicated bands will be considered in town centres and those locations that benefit from high accessibility to public transport facilities*

- e) *a range of dwellings should be proposed that are accessible in their design to provide an appropriate standard of access for all. The design of dwellings should ensure they are capable of providing accommodation that is wheelchair accessible for those in society who are mobility impaired. A range of dwelling types and designs should be provided to prevent members of society from becoming socially excluded*
- f) *dwellings should be designed to be energy and resource efficient and, where practical should include integrated renewable energy technologies to minimise their impact on the environment*
- g) *a proposed site layout must indicate safe and convenient access through provision of walking and cycling infrastructure, both within the development and linking to existing or planned networks; meet the needs of mobility impaired persons; and respect existing public rights of way*
- h) *adequate and appropriate provision is made for car and bicycle parking including where possible electric vehicle charging points*
- i) *the design and layout must 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*
- j) *the design and layout should where possible include use of permeable paving and sustainable drainage*
- k) *the design and layout design must demonstrate appropriate provision is made for householder waste storage and its collection can be facilitated without impairment to the access and maneuverability of waste service vehicles*
- l) *the development is designed to deter crime and promote personal safety.*
- m) *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.*

32. The Justification and Amplification states that:

*Please note the Supplementary Planning Guidance on design of residential development that will support the implementation of this policy.*

33. It also states that:

*Accessible Accommodation*

*Design standards are encouraged to meet the varying needs of occupiers and be easily capable of accommodating adaptations. Developers should ensure that a range of dwelling sizes (including internal layout and the number of bedrooms) is provided to meet a range of housing needs that facilitate integration and the development of mixed communities.*

34. Given the scale of residential development public open space is not required but this site is part of a committed housing site and a much larger housing designation. Policy HOU5 - Public Open Space in New Residential Development states that:

*Adequate provision must be made for green and blue infrastructure in public open space and for open space that links with green and blue infrastructure where possible and*

*provides pedestrian and cycle linkages to nearby public amenity spaces. Proposals for new residential development of 25 or more units, or on sites of one hectare or more, must provide public open space as an integral part of the development, subject to the following:*

- a) *the open space must be at least 10% of the total site area*
- b) *for development proposals of 300 or more units, or on sites of 15 hectares or more, the open space must be at least 15% of the total site area.*

*The following exceptions to the above open space provision will apply where:*

- a) *the residential development is designed to integrate with and make use of adjoining public open space*
- b) *the provision of open space below 10% of the total site area if the proposal is located within a city or town centre or it is demonstrated that it is close to and would benefit from ease of access to existing public open space*
- c) *in the case of apartment developments or specialist housing (see Policy HOU11) where a commensurate level of private communal open space is being provided.*

*Development proposals of 100 units or more, or on sites of 5 hectares or more, must be provided with an equipped children's play area unless one already exists within a reasonable and safe walking distance (generally around 400 metres) of the majority of the units within the proposal.*

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

- *it is designed as an integral part of the development with easy and safe access from the dwellings*
- *it is of demonstrable recreational or amenity value*
- *it is designed, wherever possible, to be multi-functional*
- *its design, location and appearance takes into account the needs of disabled persons and it respects the amenity of nearby residents*
- *landscape and heritage features are retained and incorporated in its design and layout.*

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

*Developers must demonstrate 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.*

35. As more than five dwellings are proposed there is a requirement for affordable housing. Policy HOU10 - Affordable Housing in Settlements states that:

*Where the need for Affordable Housing is identified, through the Housing Needs Assessment on sites of more than 0.5 hectares or comprising of 5 residential units or more, proposals will only be permitted where provision is made for a minimum 20% of all units to be affordable. This provision will be secured and agreed through a Section 76 Planning Agreement.*

*All developments incorporating affordable housing should be designed to integrate with the overall scheme with no significant distinguishable design differences, in accordance with any other relevant policies contained within this Plan Strategy.*

*In exceptional circumstances where it is demonstrated that the affordable housing requirement cannot be met, alternative provision must be made by the applicant, or an appropriate financial contribution in lieu must be agreed through a Section 76 Planning Agreement. Such agreements must contribute to the objective of creating mixed and balanced communities.*

*Proposals for the provision of specialist accommodation for a group of people with specific needs (such as purpose built accommodation for the elderly, Policy HOU11) will not be subject to the requirements of this policy.*

*Windfall sites will be encouraged for the development of affordable housing in suitable and accessible locations.*

*By exception, proposals for affordable housing could be permitted on land identified as open space, in accordance with Policy OS1, where it can be demonstrated that all of the following criteria have been met:*

- a) *a demonstrable need has been identified by the Northern Ireland Housing Executive*
- b) *the application is made by a registered Housing Association or the Northern Ireland Housing Executive*
- c) *the proposal will bring substantial community benefits that decisively outweigh the loss of the open space.*

*Development proposals will not be supported where lands have been artificially divided for the purposes of circumventing this policy requirement.*

36. The Justification and Amplification states that:

*The policy requires a minimum provision of 20% of units as affordable housing. Where up to date evidence indicates a requirement for a higher proportion of affordable housing, the council will expect developments to provide this. Where appropriate this may be indicated through key site requirements within the Local Policies Plan. It may also be secured through discussions with applicants on a case-by-case basis as part of the development management process.*

37. The Glossary associated with Part 2 of the Plan Strategy states that:

*Affordable Housing – affordable housing is:*

- a) *Social rented housing; or*
- b) *Intermediate housing for sale; or*
- c) *Intermediate housing for rent,*

*that is provided outside of the general market, for those whose needs are not met by the market.*



*Affordable housing which is funded by Government must remain affordable or alternatively there must be provision for the public subsidy to be repaid or recycled in the provision of new affordable housing.*

### **Access and Transport**

38. The proposal involves the construction of a new access connecting the proposed development to the existing internal service road. Policy TRA1 - Creating an Accessible Environment states that:

9.

*The external layout of all development proposals will incorporate, where appropriate:*

- a) *facilities to aid accessibility e.g. level access to buildings, provision of dropped kerbs and tactile paving etc, together with the removal of any unnecessary obstructions*
- b) *user friendly and convenient movement along pathways and an unhindered approach to buildings*
- c) *priority pedestrian and cycling movement within and between land uses*
- d) *ease of access to car parking reserved for disabled or other users, public transport facilities and taxi ranks.*

*Public buildings will only be permitted where they are designed to provide suitable access for customers, visitors and employees.*

*Access to existing buildings and their surroundings should be improved as opportunities arise through alterations, extensions and changes of use.*

*Submission of a Transport Assessment Form (TAF) and a Design and Access Statement may also be required to accompanying development proposals.*

### **Access to Public Roads**

39. Policy TRA7 Car Parking and Servicing Arrangements in New Developments states that:

*Development proposals will 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 published standards<sup>33</sup> or any reduction provided for in an area of parking restraint designated in the Local Development Plan. Proposals should not prejudice road safety or significantly inconvenience the flow of vehicles.*

40. Policy TRA8 - Active Travel Networks and Infrastructure Provision states that:

*Planning permission will only be granted for proposals where public transport, walking and cycling provision forms part of the development proposal.*

*A Transport Assessment/Travel Plan or, if not required, a supporting statement should indicate the following provisions:*

- a) *safe and convenient access through provision of walking and cycling infrastructure, both within the development and linking to existing or planned networks*
- b) *the needs of mobility impaired persons; and respect existing public rights of way*
- c) *safe, convenient and secure cycle parking.*

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

### **Flooding**

41. This is part of a larger site, and the drainage must be designed to take account of the impact on flooding to the site or elsewhere. However, Rivers Directorate acknowledge that the agreed mitigation measures within the Drainage Assessment previously submitted still apply.

42. Policy FLD 1 – Development in Fluvial Flood Plains is therefore applicable and states that:

*New development will not be permitted within the 1 in 100-year fluvial flood plain (AEP of 1%) plus the latest mapped climate change allowance, unless the applicant can demonstrate that the proposal constitutes an exception to the policy.*

43. Policy FLD2 - Protection of Flood Defence and Drainage Infrastructure states that:

*Development will not be permitted that impedes the operational effectiveness of flood defence and drainage infrastructure or hinder access for maintenance, including building over the line of a culvert.*

44. Policy - FLD3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states:

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

- a) *a residential development of 10 or more units*
- b) *a development site in excess of 1 hectare*
- c) *a change of use involving new buildings and/or hard surfacing exceeding 1,000 square metres in area.*

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

- *it is located in an area where there is evidence of historical flooding.*
- *surface water run-off from the development may adversely impact on other development or features of importance to nature conservation, archaeology or historic environment features.*

*A development requiring a DA will be permitted where it is demonstrated through the DA 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. If a DA is not required, but there is potential for surface water flooding as shown on the surface water layout of DfI Flood Maps NI, it remains the responsibility of the developer to mitigate the effects of flooding and drainage as a result of the development.*

*Where the proposed development is also located within a fluvial flood plain, then Policy FLD1 will take precedence.*

## Regional Policy and Guidance

### Regional Policy

45. The SPPS was published in September 2015. It is the most recent regional planning policy, and it is stated at paragraph 1.5 that:

*The provisions of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals.*

46. 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.

47. 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*

48. 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.*

49. 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.*

50. 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.

51. The site is proposed to be developed for housing development. It is stated at paragraph 6.136 that:

*The policy approach must be to facilitate an adequate and available supply of quality housing to meet the needs of everyone; promote more sustainable housing development within existing urban areas; and the provision of mixed housing development with homes in a range of sizes and tenures. This approach to housing will support the need to maximise the use of existing infrastructure and services, and the creation of more balanced sustainable communities.*

### **Retained Regional Guidance**

52. Whilst not policy, the following guidance documents remain a material consideration.

#### Creating Places

53. The policy requires the guidance in the 'Creating Places – Achieving Quality in Residential Developments' (May 2000) to also be considered.
54. 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.
55. 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 metres between the rear of new houses and the common boundary.*

56. Paragraph 5.20 provides guidance on the level of private open space provision for apartment developments as follows:

*In the case of apartment or flat developments, or 1 and 2 bedroomed houses on small urban infill sites, private communal open space will be acceptable in the form of landscaped areas, courtyards or roof gardens. These should range from a minimum of 10 sq. m per unit to around 30 sq. m per unit. The appropriate level of provision should be determined by having regard to the particular context of the development and the overall design concept.*

#### Development Control Advice Note 8 - Housing in Existing Urban Areas

57. Paragraph 4.10 states that:

*Planning Service will expect applicants and designers to carry out an appraisal of the local context, which takes into account the character of the surrounding area; and new development should respect the architectural, streetscape and landscape character of the area.*

### Assessment

#### **Housing in Settlements**

##### Policy HOU 1 – New Residential Development

58. This application is for 19 dwellings within the settlement limit of Lisburn. The land on which this development is proposed is zoned as part of a much larger a committed housing site and significant material weight is afforded to designation LC03/13 in the last revision to draft BMAP. As the proposed development is on land zoned for residential use the policy tests associated with Policy HOU1 are met.

##### Policy HOU3 - Site Context and Characteristics of New Residential Development

59. Most of the land surrounding the site has been zoned for housing and the development of these lands is ongoing, however it is noted the there is a parcel of land immediately to the east has been designated as open space under draft BMAP. Beyond this, there is the built and occupied developments of Belsize Meadows and Belsize Gardens. To the west there is the development of Breton Hall. The site itself is within the development of Fairfields Glen, which extends from Boomers Road down to Magheralave Road.
60. The surrounding development contains mostly two storey properties, with some two and a half storey dwellings seen in Fairfield Glen. The dwellings are noted as being set in medium sized plots with in-curtilage parking. The site is close to the settlement limit of Lisburn, with lands beyond to the north, open countryside.
61. Under a previous planning application, LA05/2018/0196/O, part of the current application site had previously been approved for 11 dwellings (with 23 dwellings in total approved under this application, encompassing a different red line). This

relates to the southern part of the site, specifically sites 17-21, sites 26-30 and site 37. These were all approved as two and a half storey dwellings.

62. Under the current proposals, the layout and housing arrangement is similar to that approved. For the most part, different house types are proposed which has in turn informed changes in terms of individual plot layouts with particular regards to parking and amenity provision. However, notably, the most obvious difference is the now inclusion of two apartment units on site 37, which was formerly a detached dwelling.
63. The overall scheme comprises 14, rather large, detached dwellings. It also includes two apartment blocks, plot 37, which contains 2 apartments and plot 60 where 3 apartment units are proposed. There is a mix of single storey, two storey, two and a half storey and three storey dwellings proposed across the site. Whilst different house types are proposed, many of the buildings are of a similar scale, mass and design to those previously approved. They have small gardens to the front, with a larger, private amenity area to the rear. Each dwelling has a driveway accessed from the nearest service through road. Both apartment blocks have an area of hardstanding to the front for the parking of vehicles.
64. The form and general arrangement of the buildings is characteristic of those built in the surrounding residential development to the north, east and south.
65. Policy HOU4 also requires choice and variety in terms of housing in layout. Within the overall larger site, a variety of housing is constructed. Within this application site, an ample variety of house types are offered. The buildings are sensitively designed to ensure the development respects the established residential character of the local area for the reasons detailed above. It is seen that apartment development has previously been approved elsewhere in the wider site, in particular, on the parcel of land opposite sites 27-39 where an apartment block containing 4 apartments has been approved in a two and a half storey building.
66. The plot sizes and general layout proposed is consistent with and comparable with other built development in the general vicinity of the site.
67. 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 dwellings, and it is considered that the established residential character of the area would not be harmed.
68. The layout of the rooms in each of the dwellings, the position of the windows and separation distances 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.
69. Having regard to this detail and the relationship between the buildings in each plot it is considered that the guidance recommended in the Creating Places document and criteria (a) of policy HOU3 are met.

70. With regard to criteria (b), no landscape characteristics/features have been identified that require integration into the overall design and layout of the development. This part of the policy is met.

#### Policy HOU4 - Design in New Residential Development

71. Eight different house types are proposed, with only one having been replicated from the previous permission, BH5A on site No. 26.
72. The dwellings on plots 26-30 are seen to be arranged in an almost linear layout, whilst respecting the curvature of the road to the front. They are all front facing, with a garden and driveway area to the front.
73. House type BH5A, on plot No. 26, is on the same site as previously approved. The most notable difference being the details of the surrounding plot, with the driveway now located to the right of the dwelling, as opposed to the left as approved, with the dwelling having been repositioned slightly further south in the site to accommodate this change. It is also set back slightly further from the main road to the front.
74. As approved, this house type is still two and a half storeys, with a small, single storey rear return. It has four bedrooms, a study, a kitchen/dining/snug area and a lounge. Two bedrooms are en-suite. There is a ground floor WC and utility, and a first-floor bathroom. The bedroom accommodation at the second-floor benefits from two dormer windows to the front and a side gable window. There is another stairway window on the other gable. I am satisfied that the bedroom on the northern gable of this dwelling is sufficiently removed from the adjacent dwelling on plot 27, with 9 metres between gables, and with this adjacent dwelling set further back, the window on the gable of the plot at No. 26 will have limited views of the private amenity area of this dwelling.
75. This dwelling has a similar relationship with the previously approved dwelling on plot 25 which is not included in this application. The dwelling would almost occupy a side-by-side relationship if not for the curvature of the road to the front. The only window on the gable nearest this dwelling is from the stairway which is not a habitable room. I am therefore satisfied that there will be no adverse overlooking effect from this dwelling towards any neighbouring property.
76. The dwelling on plot No. 27 is house type BH3a. This is not dissimilar to previous house type BH3, which was approved on the previous approval on plot No. 29. This is a split-level dwelling, with a garage at the lower ground floor, and all the accommodation contained within the ground and first floor. It has a kitchen/dining/living area and separate lounge on the ground floor. At first floor there are 4 bedrooms, one with en-suite and a bathroom.
77. The entrance hall, WC and cloakroom are at a lower level than the remainder of the ground floor, with a small series of stairs between the levels. The first floor is reached by a standard staircase, extending from the hall up to the first floor.
78. The front elevation is three story in height taking in the garage at the lower ground floor, but to the rear the dwelling is two storeys as the levels across the

site increase in a north westerly direction, with almost a 3 metre difference in levels from the driveway to the front of the site, to the rear of the dwelling. There are no windows from habitable rooms on either gable of this dwelling, therefore I have no overlooking concerns in this regard.

79. The dwelling type on sites 28-30 is House Type BH26. This is another split-level dwelling type, having a different design and layout. It is three storeys to the front elevation, with the ground floor having an entrance hall, family room, office, boot room and WC (with only windows noted to the front and sides at this level). The stairway leads to the upper ground floor, where there is a kitchen/dining area and a living area to the front. There is also a WC and utility room at this level. The stairway continues to the first floor where there are 4 bedrooms, one with ensuite and a bathroom.
80. As the previous house type, the dwellings are two storeys to the rear, taking into account the rising levels across the sites. Each dwelling has one window in the gable from a habitable room, that being the living room as seen on the upper ground floor. The position of this window is the same in each dwelling, being located on the northern gable side. There are three other windows on the opposing gables but are from non-habitable rooms. As the windows from the living room are not in facing gables, I am satisfied that there will be no undesirable overlooking arising from a habitable room towards another facing habitable room in an adjacent dwelling. For this reason, I am also content with the relationship to the nearest proposed adjacent dwelling to this house on plot 27 as both dwellings are located in a side-by-side layout, with no facing gable windows from habitable rooms.
81. It is noted the design of this house type is different to those found commonly throughout the overall site in that it has Romanesque columns located on each side of the front return, extending from the upper ground floor to the eaves. There is no objection to this design feature, as the site is within an urban area and the overall site is seen to offer a range of design options and this can therefore be said to be acceptable at this location.
82. The dwellings on plots 17-21 are located to the rear of the dwellings on plot Nos. 26-30, enjoying a back-to-back relationship. These dwellings all consist of house type BH7f. This house type is a two-storey dwelling, with a two-storey porch projection to the front. To the rear, there is a pitched roof element to one side where there the first-floor room is full head height, and to the other side the roof extends in a 45-degree slope to the eaves above the ground floor, with only 1 or 2 Velux windows seen at first floor level in this part of the roof.
83. The dwellings on sites 19, 20 and 21 are the same (save for two windows). The dwellings on sites 17 and 18 are the same on the ground floor but have a slightly different layout at first floor. They are also noted as being a handed version to those seen in sites 19-21.
84. These dwellings (17, 19, 20 and 21) are occupied by a central hall area, from which there is a kitchen/dining/snug to one side and a lounge to the other. There is a utility and WC also accessed from the kitchen. The stairway to the first floor extends from the hall, which leads to a landing off which there are 4 bedrooms, one with en-suite and dressing room, and a bathroom. A storage area is



- provided in the eaves in that area under the sloping roof, which is accessed from bedroom 1. All the aforementioned dwellings on these plots consist of this internal layout, with the handed dwellings having the room arrangement located on the opposite side.
85. In reference to the difference in the fenestration as mentioned above it is seen that the dwellings located on sites 19-20 have a just one front facing window in the lounge and in bedroom 1, whereas the dwelling on site 21 also has gable windows in these rooms in the southern elevation.
  86. In regard to the dwelling on site 18, whilst it is largely the same house type, it does have different first floor layout to the other dwellings in the row. Whilst there are still 4 bedrooms provided at first floor; the arrangement of these rooms differs to ensure there are no windows from habitable rooms on the gables. Bedroom 1 still has an en-suite and dressing room. There is one large Velux on the rear elevation of bedroom 4. Apart from this larger Velux, the external appearance of this dwelling is seen to be the same as the other adjacent plots with this house type.
  87. Sites 17, 19, 20 and 21 have bedroom windows in the gables at first floor level. However, they have been positioned as such that they are facing into an opposing gable with only 2 ground floor obscured glazed windows, thus eliminating the potential for overlooking from one habitable room to another. The dwelling on plot 18 as discussed in the paragraph above, has a slightly different first floor layout to ensure there are no gable windows from habitable rooms, also to reduce any overlooking potential.
  88. The dwelling on plot 21 is noted as having bedroom windows in both gables. The northern gable faces towards the gable of plot 20 which has two obscured glazed windows on the ground floor gable. The southern gable of the dwelling on site 21 faces towards the adjacent plot 22 which is not included within this application. The views from this window are towards the driveway of this property and a garden store. This window is 10m from the adjacent property and due to the curvature of the road the rear private amenity area is set at an angle, thus further limiting overlooking potential. As a result of the above, I am satisfied that the bedroom windows on the gables of this dwelling are acceptable and will not cause adverse overlooking concerns.
  89. The furthestmost plot to be assessed along this particular part of the site is plot No. 37. It can be seen in the previous approval that a detached 2 and a half storey dwelling was approved here, House Type BH7BSL.
  90. The current application instead proposes two apartments on this plot, contained within a two-story building, house type BH34. This building has the appearance of a detached two storey dwelling. However, it is seen that there is a ground floor and a first-floor apartment. Both are accessed via separate doors on the front elevation. The building has a pitched roof, with single storey side and rear returns on the ground floor.
  91. The ground floor apartment has 3 bedrooms accessed off a central hall. The hall also leads to an open plan lounge/dining/kitchen area, from which there is a utility

- room extending to the rear. This is noted as being a larger apartment to the one above at first floor level as it benefits from the side and rear returns.
92. The first-floor apartment is accessed from a front doorway leading to a stairwell. There are high level windows over the stairs to the front which assists in the appearance of the building as a single dwelling unit.
  93. The first-floor apartment is smaller than the ground floor apartment. It contains 2 bedrooms, a bathroom and a lounge/dining/kitchen area. This building follows on from the building line set in the adjacent dwellings. There is an area of hard standing to the front for the parking of cars. There is communal open space to the sides and rear. It is quite close to the rear boundary, being 2 metres from the rear of the utility room to the boundary, however there is no development approved to the rear of the site so I am satisfied that the first-floor rear windows from the lounge/kitchen area and the bedroom will not overlook any dwellings or private amenity area.
  94. There are no windows on the southern elevation of this building. However, it is noted that there is a first-floor window on the northern gable in the lounge/kitchen area. This window is approximately 10 metres from the boundary of the rear of the approved dwelling at No. 35. This is an acceptable distance for a first-floor window to ensure there will be no adverse overlooking effects. This apartment block is deemed acceptable at this location.
  95. Sites 57-59 are all House Type BH28. As seen in some earlier house types, there are some small design changes between dwellings. These dwellings are located in the northern part of the site, and form an almost linear layout, fronting onto an internal service road.
  96. The dwellings on plots 57 and 59 are noted as being of the same design and as having the same internal room layout. The only notable difference being the finishes, with site no. 57 finished in select facing brick whereas the dwelling on site no. 59 is finished in rough cast/smooth render. The dwelling on site 58 is a handed version of nos. 57 and 59 but is similarly finished to the dwelling on site no 59.
  97. These are split levels dwellings, being three storeys at the front elevation and two storeys at the rear as the levels across the site increase by up to 11m from east to west. These house types are not dissimilar to those house types seen in plots 28-30 (house type BH26), with the main difference being the size of the dwellings, with those in plots 57-59 being notably bigger in terms of width.
  98. The dwellings are accessed via a central doorway on the ground floor. This opens into a hall off which there is a garage to one side and a guest suite/boot room/utility room and WC. A stairway ascends to the first floor where there is a kitchen/dining/living and a separate lounge. The second floor contains 4 bedrooms, one with en-suite and dressing rooms and a bathroom. Only one window is seen on a gable, and it is an obscured bathroom window. I am therefore satisfied that there are no overlooking concerns from facing gables as none of the dwellings have windows from habitable rooms located on the gable.

99. The dwellings on site nos.58 and 59 also have Romanesque columns designed in the front elevation, extending from the first floor to the eaves. Site No. 57 has a driveway located adjacent to the southern gable. The dwellings on sites 58 and 59 have a shared surface area to the front of each respective garage. This leads to a private parking area immediately to the front of each dwelling for the parking of one car (the remaining two parking spaces are allocated within each garage). The rear gardens of these three dwellings are seen to extend considerably to the rear, with the longest being the rear of the dwelling on plot No. 59 who has a garden extending approximately 31 metres. As stated previously, the levels increase towards the west in this part of the site. The rear area of the garden is seen to be a grassed bank containing mixed wildflower meadow grasses, whereas the area immediately to the rear of the dwellings consists of amenity grass.
100. The three dwellings located on these plots are found to be acceptable and are not thought to create adverse effects towards each other or other approved or proposed dwellings.
101. On the lands to the north of the site No. 59 there is shown to be a wayleave traversing the site. Just beyond this, part of the lands are also included in this application and show an apartment block proposed at site No. 60, 60a and 60b. This is a pitched roof building, which is shown to contain 3 apartment units split over 2 floors. The building is also split level taking into account the level differences across the site, whereby the front elevation is single storey, and the rear is two storeys.
102. Two apartments are contained within the upper ground floor, with both accessed from their own central doorway along the front elevation. As such, this gives the appearance of a pair of semi-detached cottages from the front. Both apartments at this level have the same layout but a handed version of each. They both have one bedroom, a kitchen/living/dining area and a bathroom. The lower ground floor contains one apartment. It has a similar accommodation layout to those above, with a single bedroom, a kitchen/living/dining area and a bathroom. This apartment has its own door entrance, accessed from the lower ground floor along the rear elevation. There are steps leading from the hardstanding area at the front to the rear for pedestrian access to the lower ground floor apartment.
103. This apartment building is positioned almost centrally in the site. It is situated at the end of a cul-de-sac where the surrounding development is largely complete, and the houses are occupied. The parking schedule shows there to be 4 in-curtilage parking spaces in an area of hardstanding to the front of the dwelling. There are an additional 3 spaces shown in designated spaces in an area of hard standing at the end of the cul-de-sac. There is a landscaped area between the hard standing and the building, with a circular paved feature. The landscaping continues around most of the building, with a private garden area shown to be associated with the lower ground floor apartment, with a door from the kitchen allowing access to this area.
104. In terms of fenestration and the potential for overlooking, the plans show there to be two-bedroom windows from the upper ground floor apartments along the front elevation. The nearest window to the common boundary to the front of the site

(that boundary with the dwelling at No. 11 Woodfort Gardens) is approximately 10 metres away (apartment B), with the window from apartment A being further again. This distance is acceptable and in line with the guidance whilst also mindful that this part of the building is single storey.

105. The rear elevation of the apartment building is seen to have no windows from the upper ground floor, with only Velux in the roof. The lower ground floor has one bedroom window on this rear elevation, however the plans show there to be a 2.1 metre high screen fence and planting located to the front of it, which is along the common boundary of the dwelling approved adjacent to the site on site No. 20. There is a 6 metre separation distance between this window and the boundary, however the screen fence located between the two will prevent any overlooking concerns in this regard.
106. It is noted that there are windows from the kitchen/living/dining areas of both apartments on the upper ground floor on both gable sides. Windows on these gables are of no concern in terms of overlooking potential as the northern gable faces towards the road and site 61 beyond. This proposed dwelling is located at 15.5 metres away from the closest point and as such will not create overlooking issues. Due to the juxtaposition of this building relative to the dwellings on either side, there is no potential for overlooking from these windows into the private rear gardens of the adjacent dwellings.
107. Likewise, the windows located on the southern gable are located some 12 metres from the boundary of the dwelling to the rear on site 59, with a wayleave located between. The nearest window on the upper ground floor apartment A is located approximately 8 metres from the rear boundary of the dwelling located at No. 62 Fairfields Glen. However, again due to the positioning of these dwellings relative to each other, there will only be obscure views of the private amenity area of this adjacent dwelling, and it is not that area of amenity closest to the rear of the dwelling which is most protected.
108. It is acknowledged that there are first floor windows on this gable from the apartment above that will overlook the private amenity area below of apartment C. However, this is an apartment block and in the first instance there is no requirement for each unit to provide a private amenity area, so the provision of this space associated with apartment C is additional. Due to the nature of the development, with multiple units occupying the one building there inevitably will be some overlooking into this private area but this is not a significant impact that would merit the application being refused.
109. In consideration of the above, there are no concerns for the three apartments located in this building, and it is thought the building will provide a quality residential environment.
110. The most northerly site within this application is site No. 61, situated adjacent to the occupied dwelling at No. 19 Woodfort Gardens, located at the end of this cul-de-sac. The dwelling proposed on this site is house type BH23. This is a split level, single storey dwelling where there is a small set of stairs leading to the bedrooms on a slightly lower level. There are two bedrooms, one with en-suite. On the higher-level part of the dwelling, there is a front living area off the main

hall and to the rear there is a kitchen/dining/snug and a utility room. There is also a WC at this level.

111. The dwelling fronts onto the main road, with a driveway access to one side. It is slightly set further back from the adjacent dwelling at No. 19. There is a change in levels also across the site, with almost 5 metres in difference between the driveway and the lower garden. An upper garden is also identified to the rear of the dwelling, with the remainder of the land around the dwelling noted as being planted. Due to the level differences seen across the site, there is a significant under build area in the southern part of the dwelling, where the southern gable is seen to extend 3.4 metres from the lower ground floor level down to the lower garden area. Substantial planting is proposed around the boundary of this lower garden which will assist in integrating this part of the dwelling.
112. All windows on this dwelling are either front or rear facing, with none on the gables. As such I am satisfied that the dwelling will have no adverse effects in terms of overlooking on the adjacent dwelling to the northwest at No. 19 Woodfort Gardens. There is no development proposed or approved on the lands directly behind the site, so although the separation distance is 5 metres at the closest point from the dwelling to the rear boundary, this is acceptable as there is no dwelling to rear to take cognisance of and there is ample amenity provision throughout the entire plot. The nearest dwelling to the rear is that approved at site No. 15. This dwelling is located to the north of the site, directly behind the dwelling at No. 19 Woodfort Gardens. Only a small portion of the rear boundary of the application site is shared with this dwelling. There is a garage approved in the rear corner of this dwelling, which is located near the common boundary it shares with the application site. In light of this and the significant separation distance between the proposed dwelling and the approved dwelling, I am satisfied that there will be no undesirable effects from this dwelling on the approved.
113. To the east of the site there is an approved dwelling on site No.19. This dwelling is set back slightly further from the proposed dwelling, almost enjoying a similar building line (though it is noted that this approved dwelling is accessed from a different road). As stated, there are no windows in this gable so there are no overlooking concerns in this regard. It is acknowledged that the proposed dwelling is at a higher level than this adjacent approved dwelling, however there is a minimum of 20 metres from the closest window from a habitable room on this proposed dwelling to the boundary of the rear garden of this property. As such I am also content that there are no overlooking concerns towards the private rear amenity area of this adjacent approved dwellings.
114. The development on the site does not conflict with surrounding land uses. It is well separated from adjoining residential development and the buildings are not dominant or overbearing and no loss of light would be caused.
115. I have already touched on some of the separation distance from the rear of the buildings to the rear boundary above. It is found that most of the separation distances from the rear of the buildings to the rear boundary is greater than 10 metres, resulting in some building to building separation distances being greater than those seen in similar sized development sites elsewhere in Lisburn.

116. The back-to-back separation distances between those dwellings on sites Nos. 26-30 and those to the rear in site Nos. 18-21 is 20.5 metres at the lowest, rising to 28 metres. Plots 19-21 are noted as having slightly shorter separation distances to the rear boundary, ranging between 7.5-8.5 metres. This is less than the guidance which stipulates the rear separation distance to the boundary should be no less than 10 metres. The dwellings on these plots have been designed as such to reduce the massing of the buildings to the rear by having a low sloping roof from part of the ridge to below finish floor level of the first floor. This, and the adequate building to building distances, with most being in excess of 26 metres, will mitigate any potential adverse effects created from these dwellings. It is noted that there is a bank located between the rear boundaries of these properties which is noted as having shrub and bank planting.
117. Moving further north in the site, the dwelling on plot 18 is noted as having a 9 metre separation distance to the rear boundary. As seen above, there is no proposed or approved development beyond the rear of this boundary so there are no overshadowing or overlooking concerns in this regard. There is still seen to be 131square metres of amenity provision provided for this dwelling. The adjacent apartment block on site Nos. 37 and 37a is noted as being closer to the rear boundary, being 2 metres at the closest point from the ground floor rear return. However, as above, there is no development approved or proposed to the rear. Any future proposals that may be presented for this area will have to take cognisance of this apartment block. Also, as this is an apartment building there is no requirement for a rear private amenity area.
118. The dwellings on sites 57-59 benefit from particularly greater separation distances from the rear of the dwellings to the rear boundary. These distances are 20 metres, 24 metres, and 28.5 metres respectively, with the distance to the rear dwellings even greater. This is the result of a bank beyond the usable amenity area closest to the rear of the dwelling. This bank consists of mixed wildflower meadow grasses.
119. The apartment block on sites 60, 60a and 60b is split level. The southern gable rear elevation is located 6m from the rear boundary, however there is a wayleave just beyond this on which there is no development, resulting in the boundary of the nearest site being 12 metres from this rear gable. The rear elevation of this building is 6 metres at the closest point to the common boundary it shares with the dwelling on site No. 20. However, as this is a split-level building, only half of it is two storey which lessens any dominating effect on the adjacent approved dwelling on site 20. The plans also show a 2.1 metre high screen fence and planting located adjacent to the path to the access to apartment C on the lower level. Also, between this and the boundary there is an area of planting with 3 extra heavy standard trees planted. It is noted that there is a 2 metre bank adjacent to the rear boundary of dwelling approved on site 20. There are also no windows on the upper ground floor level of this building resulting in no overlooking towards the adjacent dwelling. In consideration of the above, the relationship between the apartment building the plot 20 is acceptable.
120. The front elevation of this building is noted as being 8m at the closest point to the boundary the plot shares with the adjacent built dwelling at No. 11 Woodfort Gardens. As discussed above, the nearest window is approximately 10 metres away (apartment B) with the window from apartment A being further again. This

distance is acceptable and in line with the guidance whilst also mindful that this part of the building is single storey.

121. Also, as above, the dwelling on site 61 is noted as being 5 metres from the closest point to the rear boundary. There is no approved or proposed development to the rear of site at this point and therefore I have no concerns in terms of any over dominant or overshadowing effects from this dwelling towards any development to the rear. The nearest dwelling approved at site 15 abuts just a small corner of the proposed site, with a garage approved between the boundary and the rear garden. In light of this I also have no concerns in this regarding the dwelling proposed at this site. It is appropriately situated between the adjoining dwellings at No. 19 Woodfort Gardens and site No. 19 to cause no concerns, especially as there are no windows seen in the gables of this dwelling.
122. These distances are consistent with the guidance set out at paragraphs 5.19 – 5.20 of Creating Places.
123. I am satisfied that the layout of the rooms in each dwelling, the position of the windows along with the separation distance also ensures that there is no overlooking into the private amenity space of neighbouring properties.
124. The proposed layout is thought to be consistent with the form of housing found in the surrounding area. The proposed dwellings all face towards the internal service road. Each dwelling is shown to have two incurtilage parking spaces and 10 in-curtilage spaces provided for the 5 apartments (6.25 spaces required for the apartments in total).
125. In terms of the finishes, they are as follows:
  - Sites 17, 18, 19, 20 & 21 – House Type BH7: Select facing brick with cast stone/fibrous cement mould front door surround, concrete interlocking roof tiles, black uPVC soffits, barge boards and aluminium/uPVC rainwater goods.
  - Site 26 – House Type BH5a: smooth render with cast stone/fibrous cement mould front door surround, concrete interlocking roof tiles, black uPVC soffits, barge boards and aluminium/uPVC rainwater goods.
  - Site 27 – House Type BH3a: select facing brick and smooth render with cast stone/fibrous cement mould front door surround, black uPVC soffits, barge board and aluminium/uPVC rainwater goods.
  - Sites 28, 29, 30 – House Type BH26: rough and smooth render with cast stone/fibrous cement mould front door surround and details, concrete interlocking roof tiles, black upPVC soffits, barge and aluminium/uPVC rainwater goods.
  - Sites 37 & 37a – House Type Apartments: Select facing brick detailing and render where shown, concrete interlocking roof tiles, uPVC rainwater goods, fascia and soffits. Timber finial where shown.

- Site 57 – House Type BH28: select facing brick with cast stone/fibrous cement mould front door surround/details, concrete interlocking roof tiles, black uPVC soffits, barge board and aluminium/uPVC rainwater goods.
  - Sites 58 & 59 – House Type BH28: rough cast/smooth render and smooth render/cast stone where shown, concrete interlocking roof tiles, black uPVC soffits and barge boards and aluminium/uPVC rainwater goods (black).
  - Site 60, 60a & 60b - House Type BH33 Apartments: rough cast render with smooth render detailing, concrete interlocking roof tiles, black uPVC rainwater goods, fascia and soffits.
  - Site 61 – House Type BH23: select facing brick and smooth/rough cast render with cast stone/fibrous cement mould front door surround, concrete interlocking roof tiles, black uPVC soffits, barge board and rainwater goods.
126. The proposed design and finishes are considered to draw upon the materials and detailing exhibited within the surrounding area.
127. For the reasons outlined above, criteria (a), (e), (f) and (i) are met.
128. There is no requirement for the provision of a local community or neighbourhood facility for this scale of development. That said, the site is within close proximity to local facilities and services at Thaxton Village. Lisburn City centre is approximately 2 miles from the site where there is a range of shops, services, food outlets and facilities. Criteria (c) is met.
129. With regard to criteria (b), detail submitted with the application demonstrates that the provision of private amenity space varies from 90 square metres at the lower end (usable amenity provision at site 61) up to a maximum of 285 square metres (usable amenity area site 59). An average of 158 square metres is provided across the site which is far in excess of the standards contained within Creating Places for a medium density housing development comprised of mostly four-bedroom dwellings.
130. The communal amenity provision at both apartment blocks is also thought to be acceptable. There is 169 square metres of amenity space provided for both apartments on sites 37a and 37. The three apartments found on sites 60, 60a and 60b have a communal amenity area to the front where there is a landscaped feature, with the area roughly measuring 100 square metres. The lower ground apartment also benefits from a private garden area of 90 square metres.
131. The dwellings and apartments will also benefit from the large area of open space to the east of the site, which was agreed as part of a comprehensive masterplan and protected in draft BMAP. This open space remains available to the proposed dwellings at this location and the wider housing lands.
132. A 2.1 metre high timber boundary fence is proposed to define the rear boundary of the site and between property boundaries. The site layout also indicates retaining walls are proposed across several parts of the site. These walls range



in height from 0.1 to 4.0 metres with a 1.1 metre high boundary wall or a 2.1 metre high boundary fence on top.

133. The levels across the site are seen to rise in a westerly direction. The levels in the garden are graded within a key as shown in the rear garden area plan. All dwellings/apartments have a garden area that is level or less than 1:10 grade. Some gardens also have rear gardens sloped or graded greater than 1:10, taking into account those parts of the site where the levels rise quite steeply. These sloped areas consist of mixed planting, mixed wildflower meadow grasses or shrub or bank planting as seen in the landscape proposals.
134. For the reasons outlined above, criteria (b) are met.
135. With regard to criteria (d) the proposed density is similar to that found in the established residential area and that the proposed pattern of development is in keeping with the overall character and environmental quality of the established residential area.
136. The internal road layout provides for safe and convenient access through the site and will meet the needs of mobility impaired persons and DfI Roads offer no objection in principle. Adequate and appropriate provision is also provided which meets the required parking standards. The requirements of criteria (g) and (h) are met.
137. The careful delineation of plots with appropriate fencing will serve to deter crime and promote personal safety. Criteria (l) is met.
138. Provision can be made for householder waste storage within the curtilage of each property as there is ample space for bins to be stored/moved along the gable of each dwelling. Safe collection can be facilitated without impairment to the access manoeuvrability of waste service vehicles. Criteria (k) is met.
139. For the reasons outlined above, it is accepted that the development complies with the policy tests associated with Policy HOU4 of the Plan Strategy in that the detail submitted demonstrates how the proposal respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, design and finishes and that it does not create conflict with adjacent land uses or unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

#### Policy HOU10 - Affordable Housing

140. The need for social and affordable housing is identified by the Northern Ireland Housing Executive as the statutory housing authority.
141. The proposed development is located within the Lisburn/Dunmurry Urban Housing Needs Area which has an unmet need of 1042 units for the 2023-28 period.

142. As this proposal comprises more than 5 units, provision is required to be made for a minimum of 20% of all units to be affordable. In this case, the applicant has committed to providing four affordable units and these units will likely be offered as intermediate dwellings (plots 37/37a Apartment B, 60, 60a and 60b).
143. The units are designed to integrate with the overall scheme consistent with policy and their delivery will be secured by way of section 76 Agreement. No more than 12 of the dwellings are to be occupied until the four affordable dwellings are constructed and available for occupation.

### **Access Movement and Parking**

144. The P1 Form states that the proposal will include the construction of a new access to a public road. The access is identified for both vehicular and pedestrian use.
145. DfI Roads has not identified any concerns in relation to the detailed layout, access and arrangement of the parking. The parking schedule demonstrates that 40 in-curtilage spaces are provided along with 11 on-street spaces therefore meeting the required spaces per unit.
146. Based on a review of the detail submitted with the application and advice from DfI Roads it is considered that the proposed complies with Policy TRA1 of the Plan Strategy in that the detail demonstrates that an accessible environment will be created through the provision of footways.
147. The proposal is also considered to comply with policy TRA7 of the Plan Strategy in that the detail demonstrates that adequate provision for car parking and appropriate servicing arrangements has been provided so as not to prejudice road safety or inconvenience the flow of traffic.

### **Planning and Flood Risk**

148. The P1 Forms indicates that both surface water and foul sewage will be disposed of via mains connection.
149. DfI Rivers have issued a consultation stating that the agreed mitigation measures within the Drainage Assessment previously apply and they have no objection.
150. The Drainage Assessment states that the NI Flood Maps indicate no fluvial or coastal flood plain within the site. It is also stated that there is marginal pluvial flooding estimated at localised low areas within the site. There is no history of flooding, and it is not estimated to be in the inundation zone of a reservoir.
151. The Drainage Assessment also stated the total areas served by the 2no. drainage networks comprise 5.10 and 1.36 ha. The 2 no. storm drainage networks are equivalent to greenfield runoff of 10l/s/ha, comprising 51.0l/s and 13.6l/s respectively. It continues by stating that discharge rates will be limited through the use of a vortex flow control device and attenuation provided within oversized drainage infrastructure.

152. It is also noted that given the site is being developed in phases with various storm discharge points, schedule 6 consent has been granted to discharge a combined total of 115.4l/s via 4 discharge points.
153. Using MicroDrainage modelling software, Marrac Design has simulated the proposed storm sewer network and tested it to the requirements of Sewers for Adoption NI. These details are shown within the Appendices of the Drainage Assessment.
154. Water Management Unit were also consulted on this application and returned a response providing standing advice.
156. Advice received from NI Water confirms that there was public water supply within 20 metres of the proposed site. In relation to public foul sewer, they also stated that there is a public foul sewer within 20m of the proposed development boundary which can adequately service these proposals.
157. With regard to public surface water sewer, the advice confirmed that there was a surface water sewer within 20 metres of the site.
158. Confirmation was also provided to indicate that there was available capacity at the receiving Wastewater Treatment Works. Officers have no reason to disagree with the advice of the consultees.
159. Based on a review of the information and advice received from DfI Rivers, Water Management Unit and NI Water, it is accepted that the proposal complies with policies FLD1, FLD2 and FLD3 of the Plan Strategy.

### **Historic Environment**

160. Upon validation, the site was identified as being within an area of archaeological potential. Historic Environment Division were consulted and responded stating that they advise that archaeological mitigation was carried out and finalised at this site under licenses AE/17/05 and AE/18/158. Therefore, they had no further archaeological concerns and on the basis of the information provided they were content that the proposal is satisfactory to the specific policy requirements.

### **Natural Environment**

161. Natural Environment Division were not consulted on the application as there was no accompanying ecological information with the application. This was discussed internally, and it was thought that as the application is part of a wider housing development which is presently under construction, further information in this regard was not necessary.

## Consideration of Representations

162. Four representations were received in objection to this application. Consideration of the issues are set out below:

**Sites 69 and 70 will cause overbearing stress on existing properties – retaining structure was successfully challenged in the first round of planning. How does the developer intend to carry out building on these sites without causing direct risk to existing properties.**

Sites 69 and 70 are not included within this application. However, it can be assumed that the objector is referring to sites 60, 60a, 60b and 61 (those sites adjacent to the existing properties at Nos. 11 and 19 Woodfort Gardens). The boundary treatments layout plan indicates that there is a retaining wall along some of the boundary of site 61 with the adjacent dwelling at No. 19. A retaining wall is also shown with the site for the apartment development on sites 60, 60a and 60b. This is not uncommon across sites where there are level differences. If any damage to any existing properties is caused as a result of any development, it is a civil issue to be addressed between the developer and the home owner.

Approval was sought through the submission of planning applications to address the method in which the level change was achieved in other parts of wider site. These were assessed accordingly at the time and found acceptable.

### **Loss of light**

The dwellings and apartments have been assessed in terms of separation distances to boundaries, overlooking, overshadowing and overdominance and it is concluded that the distances between the proposed dwelling and any neighbouring properties is acceptable and in line with Departmental guidance.

### **Loss of view**

The right to a view is a material consideration but is not given determining weight in this instance. The site has been zoned for housing and the application received is found to be compliant with the zoning and the relevant policies.

### **Spoil the characteristics of the settled community.**

The site is within the settlement limits of Lisburn City and within both the LAP and draft BMAP the site is zoned for housing, there is therefore a presumption in favour of development at this location.

**The dwelling on site 69 will negatively impact our household - it will be in close proximity to our house (No. 11 Woodfort Gardens) and will have a negative impact on the landscape to the side of our house which will result in a loss of natural light and privacy.**

Sites 69 is not included within this application. However it can be assumed that the objector is referring to sites 60, 60a, 60b (those sites adjacent to the existing property at Nos. 11 Woodfort Gardens). The apartment building has been assessed in terms of separation distances to boundaries, overlooking, overshadowing and overdominance and it is concluded that the distances between the proposed apartments and the neighbouring property is acceptable and in line with Departmental guidance. The proposed apartments will not encroach on the adjacent property and therefore will not cause a negative impact on the landscape.

**The access is in an area which will increase traffic around the outside of our home (No. 11 Woodfort Gardens) and is in an area I have been maintaining myself for 6 years.**

The red line has been outlined around the periphery of the site with notice having been served to DFI Roads with their interest noted as Roads and Footpaths. No other landowners have been served notice, confirming that the applicant is in control of all other lands as presented in this application. (DFI Roads have been extensively consulted and after many amendments have now returned a consultation response with no objection).

**Personal and domestic circumstances are explained and the objection highlights change arising from the building works will impact on the wellbeing of an individual living close to the development.**

This land was identified in both the LAP and draft BMAP as zoned housing land. Change was anticipated and planned for. No amenity issues arise from the proposed development for the reasons detailed above and the building works are considered a short-term impact and a feature of living in an urban location where significant change is common over time.

**The three apartments at plot 60 indicates overdevelopment – is contrary to policy and will disrupt our childrens enjoyment of the peace and tranquillity we enjoy at the end of this quiet road.**

Having assessed the proposal against the relevant policy provisions, it has been found that 3 units on this site meets all the required standards without resulting in the overdevelopment of the site.

**These lands were never meant to be developed. They are part of a landscaped ravine and are protected under Policy OS1. Open space should not be built on – its protection is critical, especially in built up urban areas. There never has been any approval or suggested development of the ravine. Plot 60 should be a retained landscape embankment - as seen to the rear of plot 59.**

This is not existing open space. Within both the LAP and draft BMAP the site is zoned for housing, so there is a presumption of favour of development of this nature at this location.

**We have seen wildlife including bats and badgers in this area – these protected species have not been fully considered, surveyed or assessed.**

This application is part of a wider housing development which is presently under construction. Further information in this regard was not considered necessary as natural heritage issues across the site would have previously been assessed.

**The street is a shared surface road with no footways where children play – it was not designed to accommodate any further traffic – the crash barrier is testament to the fact that there was never to be any further development here – there was never any aspiration to add additional entry or exit points into the area – had this been the intention of the developer this would have been evidenced with retaining structures and additional sewage mains.**

The roads are designed to current standards and officers have no reason to disagree with the advice received from DfI Roads. The access arrangements are acceptable for the reasons set out above.

**Visitors coming to the houses within the cul-de-sac park on the street – the new entrances off the shared surface removes the ability to do this.**

DfI Roads have been extensively consulted and have no objections to parking provision in the area.

**There is a lack of ability to turn meaning drivers will be forced to reverse long distances causing road safety issues.**

There is a turning area seen at the end of the cul-de-sac. DfI have raised no concerns in this regard.

**The 3 apartments at plot 60 will not provide a quality residential living environment – the limited outlook and aspect of the lower ground floor apartment, and the limited ability to gain natural light into bedrooms. It is a flawed design to squeeze a split-level proposal onto a site which was never meant to be developed. This plot must be removed from the application.**

Having assessed the proposal against the relevant policy provisions, it has been found that 3 units on this site meets all the required standards.

**There should be consideration to the 17 apartments in Woodfort Gardens and the increase in traffic they bring.**

DfI Roads have raised no concerns in regard to an accumulation in traffic across the broader site.

**Woodfort Gardens is a very busy street and will become even more so when the new apartments and housing are in situ.**

DfI Roads have raised no concerns in regard to an accumulation in traffic within Woodfort Gardens.

**The proposal will have a detrimental impact on the use of available space - something the developer has failed to provide within the community.**

The open space provision has been planned for to the east of the site. The requirements of policy are met in this regard and there is no requirement for open space to be provided as part of this development.

### Recommendation

163. The application is presented with a recommendation to approve subject to conditions and deed of variation to the Section 76 planning agreement to ensure that the developer fulfils his obligations with regards to the delivery of affordable housing in accordance with the requirements of policy HOU10 of the Plan Strategy.

### Conditions

164. The following conditions are recommended:

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

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

- The vehicular accesses, including visibility splays and any forward sight distance shall be provided in accordance with Drawing No. P292/R60t & P292R62q, bearing the LCCC Planning Office date stamp 19 November 2024 prior to the occupation 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 gradients shall not exceed 8% (1 in 12.5) over the first 5m 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.

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

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. P292/R60t & P292/R62q, bearing the Department for Infrastructure determination date stamp 27 November 2024.

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

- No dwelling shall be occupied until hard surfaced areas have been constructed in accordance with approved drawing no. P292/R60t & P292/R62q, bearing the date stamp 19 November 2024, 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 within the site.

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

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

- No dwellings shall be occupied until that part of the service road, which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of (each phase / the development).

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

- Notwithstanding the provisions of The Planning (General Permitted Development) Order (Northern Ireland) 2015, no buildings, walls or fences shall be erected, nor hedges, nor formal rows of trees grown in (verges/service strips) determined for adoption.

Reason: To ensure adequate visibility in the interests of road safety and the convenience of road users and to prevent damage or obstruction to services.



- Notwithstanding the provisions of The Planning (General Permitted Development) Order (Northern Ireland) 2015, no planting other than grass, flowers or shrubs with a shallow root system and a mature height of less than 500 mm shall be carried out in (verges/service strips) determined for adoption.

Reason: In order to avoid damage to and allow access to the services within the service strip.

- All hard and soft landscape works shall be carried out in accordance with Drawing No. 04/8 published on the planning portal on the 22<sup>nd</sup> August 2024. The works shall be carried out no later than the first available planting season after occupation of the first dwelling.

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

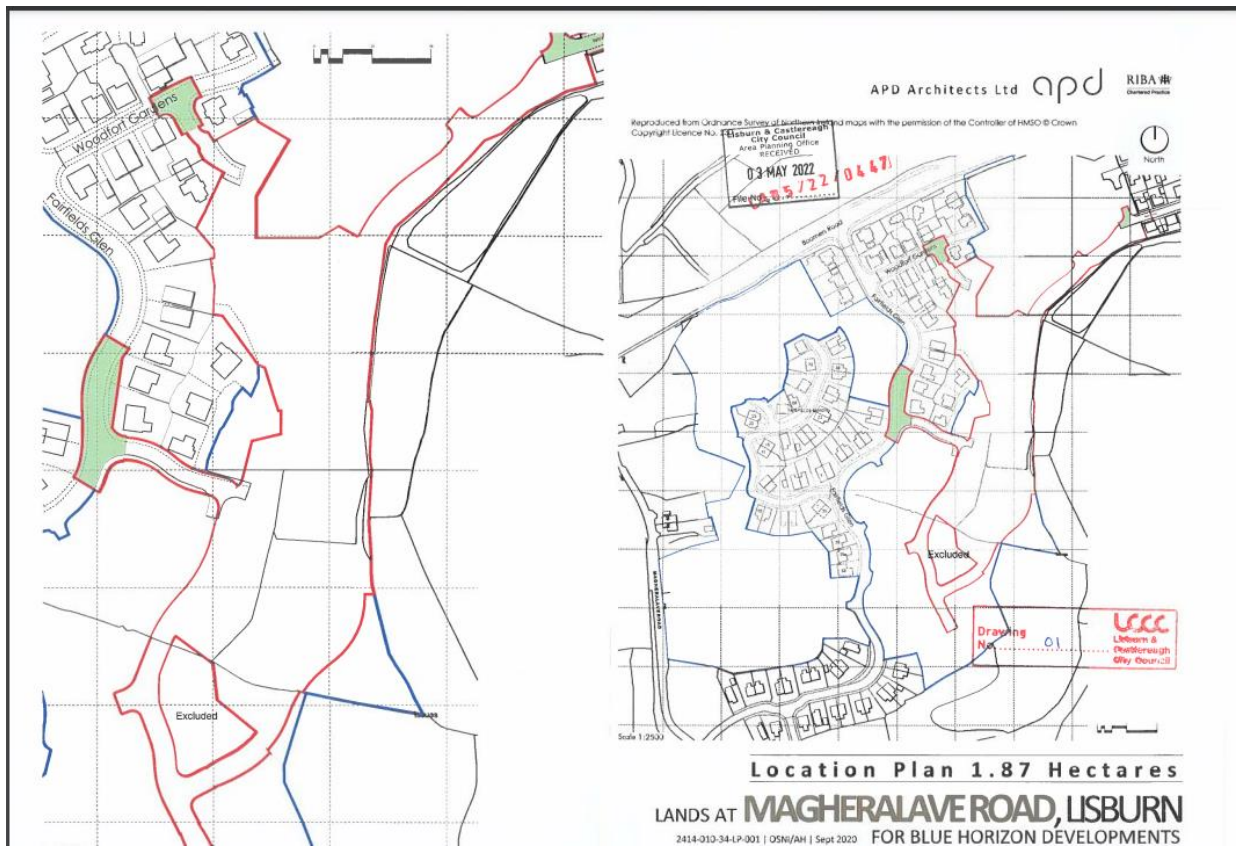
- If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that 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.

- During the first planting season, after the occupation of the first dwelling, the planting scheme shall be carried out in accordance with the landscape proposals plan No. 03/6 published on the planning portal on the 22<sup>nd</sup> August 2024.

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

### Site Location Plan – LA05/2022/0447/F



**Lisburn & Castlereagh City Council**

Planning Committee Report	
Date of Committee	03 February 2025
Committee Interest	Local Application [Mandatory] (Council Interest)
Application Reference	LA05/2024/0268//F
Date of Application	28 March 2024
District Electoral Area	Lisburn North
Proposal Description	The proposed scheme relates to the widening of the Lagan Towpath, Lisburn where the River Lagan runs adjacent to the Laganbank Road. Works will include construction of new concrete retaining wall
Location	Lands adjacent to Laganbank Road, Laganbank Retail Park, Lisburn, BT27 4TQ
Representations	Four
Case Officer	Kevin Maguire
Recommendation	Approval

**Summary of Recommendation**

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with Councils Scheme of Delegation in that the Council has an interest in the land.
2. The proposal complies with policies HE2 and HE4 of the Plan Strategy in that the detail submitted with the application demonstrates that the proposed works to the towpath would not adversely impact the preservation of archaeological remains of local importance through the inclusion of appropriate conditions to be discharged prior to the commencement of any works on site.

3. The widening of the towpath to provide a more substantial cycle/footway route along this stretch of the River Lagan would not lead to any loss of open space rather is an alteration of a small linear portion of from one type of open space, namely informal recreational and woodland/urban forestry, to another type of open space, amenity footpath/cycleway. In this context it is accepted that this proposal is an enhancement to the provision of open space and not contrary to the requirements of Policy OS1 of the LCCC Plan Strategy.
4. The application complies with Policies NH1, NH2 and NH5 of the Plan Strategy in that the location of the site and ecology information submitted has demonstrated that the proposed development will result in 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.
5. The proposal is supportive of Policy TRA8 of the Plan Strategy in that walking and cycling provision forms a key part of the development proposal.
6. It is accepted that the proposal complies with policies FLD1 and FLD2 the Plan Strategy and no objection was received from Rivers Agency or NIEA WMU.

## Description of Site and Surroundings

### Site

7. The application site is a linear parcel of land along the existing Lagan Towpath measuring approximately 0.89 hectares in size and located at lands adjacent to Laganbank Road and Laganbank Retail Park.
8. The site is relatively flat with a slight downward incline from the car park adjacent to Clearly Kids Day Nursery. When travelling from this point in a south westerly direction along the existing towpath there is a grassed area to the west side which drops by one metre to the existing towpath. Further along there is earth banking

and small sections of stone retaining structures. Along the right-hand side of the towpath are substantial areas of overgrown vegetation. As you progress along the towpath it widens to approximately 1.8 metres and intersects with a large pipe which crosses above the path and adjacent River Lagan secured by concrete supports. Beyond that the site opens out along the right-hand side into an area of open space and includes a small playpark. To the west and accessed by a path which runs from the riverside towpath and abuts an area of recent tree planting. Some tree planting has also taken place within the open space approximately 2.5 metres from the existing towpath. On the other side of this open space is a narrow path which rises to join Waterside providing access to the nearby housing. The towpath continues in a south westerly direction with areas of overgrown vegetation to the western side of the towpath and adjacent palisade fencing to the rear of neighboring dwellings. The site includes depressions and a flooding channel (which was dry at time of site visit) it appears to relate to the line of the former Lagan Canal.

9. The River Lagan abuts the eastern edge of the site along its entire length defined mainly by reeds and other overgrown vegetation along the water's edge. Some mature and semi-mature deciduous trees are on the banks.

### **Surroundings**

10. The site is an area of open space located along the River Lagan within the settlement limit of Lisburn.

### **Proposed Development**

11. Full planning permission is sought the widening of the Lagan Towpath, Lisburn where the River Lagan runs adjacent to the Laganbank Road. Works will include construction of a new concrete retaining wall. The length affected area is approximately 520 metres.
12. The application has been supported by the following information:

- Application form
- Flood Risk Assessment
- Tree Survey and Report
- Biodiversity Checklist and Preliminary Ecological Appraisal
- Drawings including proposed site layout, landscaping and fencing/wall details

13. The development will involve the removal of some vegetation and several trees. Details of protection measures for retained trees have been provided with porous surfaces to be provided to protect the crown spread of those trees.

### Relevant Planning History

14. There is no relevant planning history associated with this application site.

### Consultations

15. The following consultations were carried out:

Consultee	Response
Historic Environmental Division	No objection
DfI Rivers	No objection
Shared Environmental Services (SES)	No objection
Lagan Valley Regional Park	No objection
Environmental Health	No objection
LCCC Tree Officer	No objection
LCCC Building Control	No comment
NIEA Marines and Fisheries Division	No objection
NIEA Water Management	No objection
NIEA Natural Environment Division	No objection

## Representations

16. There have been 4 letters of representation submitted by one objector. The issues raised in these submissions relate to procedural matters linked to land ownership queries.

## Environmental Impact Assessment (EIA)

17. 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.
18. An EIA determination was carried out and it was concluded that there was not likely to be any unacceptable adverse environmental impacts created by the proposed development and as such, an Environmental Statement was not required to inform the assessment of the application.

## Local Development Plan

19. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on Planning applications regard must be had to the requirements of the local development plan and that the determination of applications must be in accordance with the plan unless material considerations indicate otherwise.

### Plan Strategy 2032

20. It is stated at Part 1 of the Plan Strategy that:

*Transitional arrangements will apply in relation to the existing Plan designations. The existing Development Plans which remain in effect for different parts of the Council*

area are set out in Chapter 2 (Existing Development Plans). Following adoption the Development Plan will be the Plan Strategy and any old Development Plan, with the Plan Strategy having priority in the event of a conflict. Regulation 1 state that the old Development Plans will cease to have effect on adoption of the new LDP at Local Policies Plan (LPP) stage.

*The Belfast Metropolitan Area Plan (BMAP) was intended to be the Development Plan on its adoption in September 2014. This Plan was subsequently declared unlawful following a successful legal challenge and therefore remains in its entirety un-adopted.*

*BMAP in its post-inquiry form was at an advanced stage and therefore remains a material consideration. Draft BMAP (November 2004) in its pre-inquiry form also remains a material consideration in conjunction with recommendations of the Planning Appeals Commission Public Local Inquiry Reports.*

21. In accordance with the transitional arrangements, the development plan is the Plan Strategy and the Lisburn Area Plan (LAP). Draft BMAP remains a material consideration.
22. The LAP and draft BMAP identifies the application site as being located within the settlement limit of Lisburn.
23. The strategic policy for Sustainable Development is set out in Part 1 of the Plan Strategy. Strategic Policy 01 – Sustainable Development states that:

*The Plan will support development proposals which further sustainable development including facilitating sustainable housing growth; promoting balanced economic growth; protecting and enhancing the historic and natural environment; mitigating and adapting to climate change and supporting sustainable infrastructure.*

24. The strategic policy for improving health and well-being is set out in Part 1 of the Plan Strategy. Strategic Policy 02 – Improving Health and Well-being states that:



*The Plan will support development proposals that contribute positively to the provision of quality open space; age-friendly environments; quality design; enhanced connectivity (physical and digital); integration between land use and transport; and green and blue infrastructure. Noise and air quality should also be taken into account when designing schemes, recognising their impact on health and well-being.*

25. The strategic policy for creating and enhancing shared space and quality places is set out in Part 1 of the Plan Strategy. Strategic Policy 03 – Creating and Enhancing Shared Space and Quality Places states that:

*The Plan will support development proposals that contribute to the creation of an environment which is accessible to all and enhances opportunities for shared communities; has a high standard of connectivity and supports shared use of public realm. Good quality housing that supports more balanced communities must offer a variety of house types, sizes and tenures to meet different needs.*

*Creating shared neighbourhoods should provide opportunities for communities to access local employment, shopping, leisure, education and community facilities.*

26. The strategic policy for Protecting and Enhancing the Environment is set out in Part 1 of the Plan Strategy. Strategic Policy 06 – Protecting and Enhancing the Environment states that:

*The Plan will support development proposals that respect the historic and natural environment and biodiversity. Proposals must aim to conserve, protect and where possible enhance the environment, acknowledging the rich variety of assets and associated historic and natural heritage designations. Proposals should respect the careful management, maintenance and enhancement of ecosystem services which form an integral part of sustainable development.*

27. The strategic policy for Open Space, Sport and Outdoor Recreation is set out in Part 1 of the Plan Strategy. Strategic Policy 17 – Open Space, Sport and Outdoor Recreation states that the plan will support development proposals that:
- a) protect and enhance existing open space and provide new open space provision
  - b) support and protect a network of accessible green and blue infrastructure
  - c) support and promote the development of strategic and community greenways.
28. The strategic policy for protecting the historic environment is set out in Part 1 of the Plan Strategy. Strategic Policy 18 – Protecting and Enhancing the Historic Environment and Archaeological Remains states that the plan will support development proposals that:
- a) protect and enhance the Conservation Areas, Areas of Townscape Character and Areas of Village Character
  - b) protect, conserve and, where possible, enhance and restore our built heritage assets including our historic parks, gardens and demesnes, listed buildings, archaeological remains and areas of archaeological potential
  - c) promote the highest quality of design for any new development affecting our historic environment.
29. The strategic policy for protecting the natural environment is set out in Part 1 of the Plan Strategy. Strategic Policy 19 – Protecting and Enhancing Natural Heritage states that the plan will support development proposals that:
- a) protect, conserve and, where possible, enhance and restore our natural heritage
  - b) maintain and, where possible, enhance landscape quality and the distinctiveness and attractiveness of the area
  - c) promote the highest quality of design for any new development affecting our natural heritage assets

- d) safeguard the Lagan Valley Regional Park allowing appropriate opportunities for enhanced access at identified locations thereby protecting their integrity and value.
30. The strategic policy for protecting the natural environment is set out in Part 1 of the Plan Strategy. Strategic Policy 20 – Transportation Infrastructure states that the plan will support development proposals that:
- a) provide or improve an integrated transport network servicing the needs of our community and future growth
  - b) deliver sustainable patterns of development, including safe and accessible environments
  - c) encourage a modal shift from private car dependency through integration of transport and land use
  - d) facilitate Park & Ride, active travel (public transport, cycling and walking) and strategic greenways to move towards more sustainable modes of travel both within the Council area and linking to wider regional networks.
31. The strategic policy relating to flooding is set out in Part 1 of the Plan Strategy. Strategic Policy 24 – Flooding states that the plan will support development proposals that:
- a) reduce the risks and impacts of flooding by managing development to avoid, where possible the potential for flooding
  - b) encourage the use of Sustainable Drainage Systems to alleviate issues around surface water flooding
  - c) adopt a precautionary approach in instances where the precise nature of any risk is as yet unproven but a potential risk has been identified.
32. As this application relates to environmental improvements through the widening of the existing towpath along the Lagan Towpath at a point within the settlement development limit there are a number of policies within the Lisburn and Castlereagh Plan Strategy that will be relevant and need to be considered.

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

### Policy OS1 Protection of Open Space

33. This proposal involve works to the Lagan towpath to enhance accessibility to existing open space. Development that will result in the loss of existing open space or land zoned for the provision of open space will not be permitted, irrespective of its physical condition and appearance.

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

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

- a) an area of open space of 2 hectares or less, where alternative provision is made by the developer and is as accessible to current users and equivalent in terms of size, usefulness, attractiveness, safety and quality;
- b) playing fields and pitches within settlement limits, where it is demonstrated by the developer that the retention and enhancement of that facility can only be achieved by the development of a small part of the existing open space, limited to a maximum of 10% of overall area, which will have no adverse impact on the sporting potential of the facility.

## **Historic Environment and Archaeology**

### Policy HE2 The Preservation of Archaeological Remains of Local Importance and their Settings

34. There is an archaeological constraint. Proposals which would adversely affect archaeological sites or monuments which are of local importance or their settings shall only be permitted where the Council considers that the need for the proposed development or other material considerations outweigh the value of the remains and/or their settings.

#### Policy HE4 Archaeological Mitigation

35. Where the Council is minded to grant planning permission for development which will affect sites known or likely to contain archaeological remains, the Council will impose planning conditions to ensure that appropriate measures are taken for the identification and mitigation of the archaeological impacts of the development, including where appropriate completion of a licensed excavation and recording examination and archiving of remains before development commences or the preservation of remains in situ.

#### **Natural Heritage**

##### NH1 European and Ramsar Sites - International

36. The proposal involves the removal of an vegetation and is development proposed in close proximity to existing trees. Planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on:
- a) a European Site (Special Protection Area, proposed Special Protection Area, Special Areas of Conservation, candidate Special Areas of Conservation and Sites of Community Importance)
  - b) a listed or proposed Ramsar Site.
37. Where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the Council, through consultation with the Department of Agriculture, Environment and Rural Affairs (DAERA), is required by law to carry out an appropriate assessment of the

implications for the site in view of the site's conservation objectives. Only after having ascertained that it will not adversely affect the integrity of the site, can the Council agree to the development and impose appropriate mitigation measures in the form of planning conditions.

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

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

39. As part of the consideration of exceptional circumstances, where a European or a listed or proposed Ramsar site hosts a priority habitat or priority species listed in Annex I or II of the Habitats Directive, a development proposal will only be permitted when:

- a) it is necessary for reasons of human health or public safety or there is a beneficial consequence of primary importance to the environment; or
- b) agreed in advance with the European Commission.

#### NH2 Species Protected by Law

40. European Protected Species

Planning permission will only be granted for a development proposal that is not likely to harm a European protected species.

41. In exceptional circumstances a development proposal that is likely to harm these species may only be permitted where:

- a) there are no alternative solutions; and
- b) it is required for imperative reasons of overriding public interest; and

- c) there is no detriment to the maintenance of the population of the species at a favourable conservation status; and
- d) compensatory measures are agreed and fully secured.

#### NH5 Habitats, Species or Features of Natural Heritage Importance

42. 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:
- a) priority habitats
  - b) priority species
  - c) active peatland
  - d) ancient and long-established woodland
  - e) features of earth science conservation importance
  - f) features of the landscape which are of major importance for wild flora and fauna
  - g) rare or threatened native species
  - h) wetlands (includes river corridors)
  - i) other natural heritage features worthy of protection including trees and woodland.

A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features listed above 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 and Transport

### Policy TRA8 Active Travel Networks and Infrastructure Provision

43. This proposal involves the widening of an existing footpath. Planning permission will only be granted for proposals where public transport, walking and cycling provision forms part of the development proposal.

A Transport Assessment/Travel Plan or, if not required, a supporting statement should indicate the following provisions:

- a) safe and convenient access through provision of walking and cycling infrastructure, both within the development and linking to existing or planned networks
- b) the needs of mobility impaired persons; and respect existing public rights of way
- c) safe, convenient and secure cycle parking.

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

## Flooding

### Policy FLD1 Development in Fluvial (River) Flood Plains

44. The proposed development is adjacent to the River Lagan. New development will not be permitted within the 1 in 100 year fluvial flood plain (AEP of 1%) plus the latest mapped climate change allowance, unless the applicant can demonstrate that the proposal constitutes an exception to the policy in the following cases:

#### Exceptions in Defended Areas

On previously developed land protected by flood defences (confirmed by DfI Rivers as structurally adequate) in a 1 in 100 year plus climate change allowance fluvial flood event.



45. Proposals that fall into any of the following categories will not be permitted by this exception:

- a) essential infrastructure such as power supply and emergency services
- b) development for the storage of hazardous substances
- c) bespoke development for vulnerable groups, such as schools, residential/nursing homes, sheltered housing
- d) any development located close to flood defences.

Proposals involving significant intensification of use will be considered on their individual merits and will be informed by a Flood Risk Assessment.

#### Exceptions in undefended areas

46. The following categories of development will be permitted by exception:

- a) replacement of an existing building
- b) development for agricultural use, transport and utilities infrastructure, which for operational reasons has to be located within the flood plain
- c) water compatible development, such as for boating purposes, navigation and water based recreational use, which for operational reasons has to be located in the flood plain
- d) the use of land for sport or outdoor recreation, amenity open space or for nature conservation purposes, including ancillary buildings. This exception does not include playgrounds for children
- e) the extraction of mineral deposits and necessary ancillary development.

47. Proposals that fall into any of the following categories will not be permitted by this exception:

- a) bespoke development for vulnerable groups, such as schools, residential/nursing homes, sheltered housing
- b) essential infrastructure
- c) development for the storage of hazardous substances.

Development Proposals of Overriding Regional or Sub-Regional Economic

## Importance

48. A development proposal within the flood plain that does not constitute an exception to the policy may be permitted where it is deemed to be of overriding regional or sub-regional economic importance and meets both of the following criteria:

- a) demonstration of exceptional benefit to the regional or sub-regional economy
  - b) demonstration that the proposal requires a location within the flood plain and justification of why possible alternative sites outside the flood plain are unsuitable.
- Where the principle of development is established through meeting the above criteria, the Council will steer the development to those sites at lowest flood risk.

## Minor Development

49. Minor development will be acceptable within defended and undefended flood plains subject to a satisfactory flood risk assessment.
50. Where the principle of development is accepted by the Council through meeting any of the above 'Exceptions Tests', the applicant is required to submit a Flood Risk Assessment (FRA) to demonstrate that all sources of flood risk to and from the proposed development have been identified; and there are adequate measures to manage and mitigate any increase in flood risk arising from the development.

## Flood Protection/Management Measures

51. In flood plains the following flood protection and management measures proposed as part of a planning application, unless carried out by DfI Rivers or other statutory body, will not be acceptable:

- a) new hard engineered or earthen bank flood defences
- b) flood compensation storage works
- c) land raising (infilling) to elevate a site above the flood level within the undefended fluvial flood plain.

#### Policy FLD2 Protection of Flood Defence and Drainage Infrastructure

52. Development will not be permitted that impedes the operational effectiveness of flood defence and drainage infrastructure or hinder access for maintenance, including building over the line of a culvert.

### Regional Policy and Guidance

53. The SPSS was published in September 2015. It is the most recent Planning policy and it is stated at Paragraph 1.5 that:

*'The provisions of the SPSS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals. The Department intends to undertake a review of the SPSS within 5 years.'*

54. Paragraph 2.1 of the SPSS 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.

55. It states that:

*The 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.*

56. 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.*

57. 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.'*

58. 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.

## Assessment

### Policy OS1 Protection of Open Space

59. This planning application seeks to widen the existing Lagan Towpath where the River Lagan runs adjacent to the Laganbank Road.

60. The definition for types of open space is defined within the LCCC Plan Strategy Supplementary Planning Guidance, Part D: Definition of Open Space. This guidance notes that:

*'open space is taken to mean all open space of public value, including not just land, but also inland bodies of water such as rivers, canals, lakes and reservoirs which offer important opportunities for sport and outdoor recreation and can also act as a visual amenity'.*

61. This is further elaborated upon with the guidance illustrating various typologies of open space which includes

*... 'green corridors – including river and canal banks, amenity footpaths and cycleways'. It also includes 'amenity green space (most commonly, but not exclusively in housing areas) – including informal recreation spaces, communal green spaces in and around housing, and village greens'.*

62. The guidance further notes that open space can perform multiple functions including:

*'promoting health and well-being - providing opportunities to people of all ages for informal recreation, or to walk, cycle or ride within parks and open space or along paths, bridleways and canal banks'.*

63. The application site and application relate to an existing towpath which provides a key community walking and cycling route for people living within the local area and therefore represent an existing area of open space. In addition, the adjacent playing fields and areas along the towpath, relate to 'natural urban green spaces', also falling within the criteria of open space within Policy OS1.

64. In this regard, the widening of the towpath to provide a more substantial cycle/footway route along this stretch of the River Lagan would not lead to any loss of open space rather is an alteration of a small linear portion of from one type of open space, namely informal recreational and woodland/urban forestry, to

another type of open space, amenity footpath/cycleway. In this context it is accepted that this proposal is an enhancement to the provision of open space and not contrary to the requirements of Policy OS1 of the LCCC Plan Strategy.

## **Historic Environment and Archaeology**

### Policy HE2 The Preservation of Archaeological Remains of Local Importance and their Settings

65. The application was not supported by any archaeological or other heritage related surveys. There are no listed buildings located in proximity to the application site.
66. The application site is in close proximity to several recorded industrial heritage sites protected under Policy HE2 including a Millrace (IHR 05664:002:00), Mill Pond (IHR 05664:003:00) and associated Corn Mill (IHR 05664:001:00) to the north of the site. This is in addition to a gasworks site (IHR 05664:001:00) and associated chimneys (IHR 05665:003:00 and IHR 05664:004:00 also located to the north. Workhouse Burial Grounds ANT068:015 is located south-west of the application site and there is an Early Medieval rath (ANT068:004) located approximately 100m to the west. All of these recorded archaeological sites and monuments are indicators of a high archaeological potential for further, previously unrecorded archaeological remains which may be encountered within the application site.
67. Historic Environment Division (HED) have been consulted on the proposals and are content that the proposal satisfies archaeological policy requirements subject to the agreement and implementation of a developer-funded programme of archaeological works to identify and record any archaeological remains in advance of any works, to provide for their preservation in situ as per Policy HE4 of the LCCC Plan Strategy.

## **Natural Heritage**

### NH1 European and Ramsar Sites – International

68. The site is located adjacent to the River Lagan which is not subject to any environmental designations however it is upstream from a number of designated sites including a number of Local Wildlife Sites along the Lagan and Belfast Lough which is a Ramsar Site.
69. Policy NH1 states that planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on a European Site or a listed or proposed Ramsar Site. The policy notes that where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the Council is required by law to carry out an appropriate assessment of the implications for the site in view of the site's conservation objectives. Only after having ascertained that it will not adversely affect the integrity of the site, can the Council agree to the development and impose appropriate mitigation measures in the form of planning conditions.
70. Both DAERA Natural Environment Division (NED) and Inland Fisheries were consulted on the potential impact on protected species and habitats. In relation to European or Ramsar sites. NED have noted that the application site is hydrologically linked to Inner Belfast Lough Area of Special Scientific Interest, Belfast Lough RAMSAR site and Belfast Lough Special Protection Area, which are of international importance and protected by the Habitats Regulations and hereafter referred to as designated sites, which are of international and national importance and are protected by the Habitats Regulations and the Environment (Northern Ireland) Order 2002 (as amended). On this basis it was recommended to consult with Shared Environmental Services (SES) to enable a Habitats Regulations Assessment on Natura 2000 sites to be undertaken.
71. SES was informally consulted earlier in the processing of the application and subsequently formally to allow them to undertake a Habitats Regulation Assessment (HRA). Following this formal consultation and the completion of the HRA SES have noted that on the basis of the '*nature, scale, timing, duration and*

*location of the project, it is concluded that it would not be likely to have a significant effect on any European site, either alone or in combination with any other plan or project and therefore an appropriate assessment is not required*, with this conclusion taking 'no account of measures intended to avoid or reduce potential harmful effects of the project on any European site'. It was advised that the Stage One assessment 'has considered the nature and scale of the proposal in context of the substantial hydrological distance and significant dilution/dispersion factors within the River Lagan. It is concluded that *'based on the location and scale of the proposal and the identified environmental pathway, there will be no significant effects that would undermine the conservation objectives of any European site features'*. It further noted that *'even in the absence of mitigation, an unintended discharge of contaminants to the River Lagan would be diluted to concentrations indistinguishable from background variations before reaching any European/Ramsar site receptor and could not negatively impact site selection features'*.

72. In addition comments from NED and SES, DAERA Water Management Unit (WMU), while not commenting specifically in relation to the potential impact on designated European or Ramsar sites, has noted that *'cements and concrete are highly alkaline and corrosive and can cause serious and significant pollution to the ground and watercourses'* and *'Water wildlife, such as invertebrates and fish, are very sensitive to changes in pH (acid / alkaline) levels'*. WMU are content with the proposal subject to a condition being attached to any approval requiring a Construction Environmental Management Plan (CEMP) to be submitted once a contractor has been appointed and agreed prior to any commencement of works on site.
73. On the basis of the consultation responses from NED, SES and WMU, it is considered that the development would on balance meet the requirements of Policy NH1 of the LCCC Plan Strategy.

Policy NH2 - Species Protected by Law and NH5 - Habitats, Species or Features of Natural Heritage Importance



74. As noted the site is located adjacent to the River Lagan and encompasses a number of areas of overgrown vegetation and banking adjacent to the existing towpath, both of these features having the potential to provide habitats to protected species and other species as well as other natural heritage features.
75. The application was initially submitted with no ecological information, and this was received once requested by the Council. A Biodiversity Checklist (BC) was submitted and in the BC answered yes to a number of questions relating to designated sites, including the presence of the River Lagan, and potential impact on protected and priority species including the removal of scrub and several mature trees. This necessitated the submission of a Preliminary Ecological Appraisal which included a habitats survey, invasive species survey, protected species survey and recommendations.
76. The site was assessed as *'moderately suitable for commuting and foraging Bats'*, with the *'River Lagan and associated woodland and scrub along its banks represent important commuting and foraging habitat for bats, as well as forming ecological corridors to suitable habitats in the wider environs'*. An assessment was undertaken of all trees on-site and within the 25m ecological buffer, with 3 trees being identified as having bat roost potential, with 2 of these judged as having low bat roost potential (T1 and T3), and no buildings located with the areas surveyed.
77. Further protected species were considered and assessed in terms of potential impacts from the proposed development including badgers, otters, breeding birds, smooth newts and fish species within the River Lagan. The report determined that there is unlikely to be adverse effects on the protected species identified and has made recommendations in relation to protected habitats and species. In relation to the protection of habitats it is noted that a Construction Environmental Management Plan is recommended to be produced *'to prevent pollution of all designated sites as a result of the development'*.

78. Following initial consultation with DAERA a number of teams, including Inland Fisheries, Water Management Unit and NED were consulted in relation to protected species and habitats.
79. Inland Fisheries have noted that the River Lagan is a Salmonid River and therefore a priority habitat as listed by NIEA. It supports populations of migratory salmonoids, eels, lamprey and several coarse fish species. The response notes that these fish populations and associated habitats and the *'the applicant should be aware that aquatic ecology can be impacted not only in the immediate area of works but also significant distances away unless comprehensive attenuation measures are applied'*. It also notes from the information submitted that the applicant has indicated that *'all works are to the landward side of the path and no works are required within the river itself'* and Inland Fisheries are content *'assuming appropriate mitigation is in place during these works there is unlikely to be any significant impact to fisheries interests in the vicinity of the works'*. No details of artificial lighting have been proposed however if such lighting is to be included it should not shine onto the water itself. Related to this is the response from Water Management Unit which notes that *'Cements and concrete are highly alkaline and corrosive and can cause serious and significant pollution to the ground and watercourses. Water wildlife, such as invertebrates and fish, are very sensitive to changes in pH (acid / alkaline) levels'*. On this basis while they are content with the proposal, they recommend a Construction Environmental Management Plan is submitted once a contractor has been appointed to ensure the protection of the water environment.
80. In relation to natural heritage NED their initial consultation response noted the submission of a Preliminary Ecological Appraisal (PEA) and confirmation of the absence of badger setts, common lizards, otters, pine martens, red squirrels and smooth newts in and adjacent to the site. In considering bats it notes the presence of 'Tree 2' on the plans submitted and associated information citing its *'moderate bat roost potential'*. NED recommended that either an amended drawing is submitted indicating the retention of this tree or a bat emergence re-entry survey of this tree to be carried out between May and September. Following consideration, the applicant was informed of this and amended the plans to show

'Tree 2' to be retained. Further consultation was undertaken with NED and based on the amended plan and updated PEA they advised they are content subject to a condition requiring that all retained trees as detailed on the site plan are protected by appropriate fencing. The Councils Tree Officer was also consulted requesting additional details on protection measures which have now been provided and are content based on the information submitted within the drawings and Tree Survey and Report by Dr Philip Blackstock (Dated August 2024).

81. Based on the responses from both NED and the LCCC Tree Officer and the amended information submitted on the points previously made, it is considered that the proposals now detailed would be acceptable on the basis on Policies NH2 and NH5 of the LCCC Plan Strategy.

### **Access and Transport**

#### Policy TRA8 Active Travel Networks and Infrastructure Provision

82. The application is for widening a section of the existing towpath adjacent to the River Lagan. The application does not propose any changes to the road network.
83. Policy TRA8 of the LCCC Plan Strategy relates to active travel networks and infrastructure provision and notes that planning permission will only be granted for proposals where public transport, walking and cycling provision forms part of the development proposal. The application directly relates to the provision of an improved walking/cycling route which is part of the existing National Cycling Route.
84. The policy requires that permission will only be granted for proposals '*where public transport, walking and cycling provision forms part of the development proposal and a Transport Assessment/Travel Plan or, if not required, a supporting statement should be submitted to indicate 'safe and convenient access through provision of walking and cycling infrastructure'*', needs of mobility impaired persons, respects from public rights of way, and safe, convenient and secure cycle parking. This policy relates specifically to the proposed construction of buildings

and the promotion of active travel through these developments, whereas this application relates solely to the improvements of a route within an existing active travel network on behalf of the statutory body responsible for such networks (DfI Active Travel Branch). On this basis it is considered that the application would on balance promote this policy and no further justification or supporting evidence would be required.

## **Flooding**

85. The application is located adjacent to the River Lagan and the Flood Maps (NI) indicate that the site lies within the 1 in 100 year fluvial flood plain including the most up to date allowance for climate change.
  
86. Given the location of the site within the fluvial flood plain the application is required to be assessed against Policy FLD1 of the plan strategy. This policy states that new development will not be permitted within the 1 in 100-year fluvial flood plain (AEP of 1%) plus the latest mapped climate change allowance, unless the applicant can demonstrate that the proposal constitutes an exception to the policy. In this particular case the site falls within an undefended area and given its nature falls under exception d) listed, which relates to the use of land for sport or outdoor recreation, amenity open space or for nature conservation purposes, including ancillary buildings. DfI Rivers requested confirmation from the Council of whether this application met an exception under policy and if it did would require the submission of a Flood Risk Assessment (FRA) '*appropriate to the nature and scale of development*'.
  
87. A FRA was received in support of the application and a further consultation was sent to DfI Rivers. The FRA notes that both the existing and proposed paths are at risk of flooding and therefore mitigation measures are required. It notes that the '*proposal is for the widening of the existing path at the same levels as existing, therefore there will be no obstruction to the floodplain and no increased risk of flooding*'. The new path is to be designed '*to be flood resilient so will not incur any*

*major damage from flood inundation* and other mitigation measures will be incorporated to increase safety for the public including signage and temporary gates. Dfl Rivers were consulted on this FRA and in their response noted that *'while not being responsible for the preparation of this Flood Risk Assessment accepts its logic and has no reason to disagree with its conclusions'*.

88. In relation to Policy FLD2, the protection of flood defences and drainage infrastructure, Dfl Rivers response notes that in addition to being sited beside the River Lagan a culverted watercourse known as the 'Benson Street Stream' is located within Area 1 as detailed on the submitted layout. In considering working strips Dfl Rivers are content with what has been shown in relation to the River Lagan, it is understood that in relation to the Benson Street Stream the plans show that the applicant is proposing to construct a retaining wall in close proximity to this culvert. The response advises that the applicant should contact Dfl Rivers local office to establish their needs for a working strip and that this will be shown on the site layout of the proposed planning application to enable this to be enforced, providing access to and from the maintenance strip at all times. To address this issue the applicant in the FRA has noted that Dfl Rivers *'have confirmed that whilst the proposals do not provide a suitable maintenance strip as is generally required, given the nature of the proposals, they are content to forgo those requirements in this instance'*. Given however, that the proposals will involve construction over a watercourse, under the terms of Schedule 6 to the Drainage (NI) Order 1973, advance consent will be required by way of a Schedule 6 application. A Schedule 6 application will be submitted to the Dfl Rivers Area Office for construction of the retaining wall over the culvert'.
89. This has been confirmed in an email from Dfl Rivers Directorate and on this basis in their planning response Dfl Rivers have raised no further objection in relation to Policy FLD2 of the Plan Strategy.

## Consideration of Representations

90. To date there has been 4 letters of representation from one objector received in relation to the proposal.
91. Following the initial round of advertisement and neighbour, notification representations were received concerning the completion of Certificate C relating to Section 42 of the Planning (Northern Ireland) Act 2011. This Certificate stipulated that notice was served on Lisburn and Castlereagh City Council (LCCC) and the Northern Ireland Housing Executive (NIHE) It notes that the named persons having received notice on the 01/01/1970. In addition, the representation notes that they are not persons that fall within (a) (b) or (c) and therefore the certificate under Section 42 of the 2011 Planning Act *'is demonstrably wrong having been issued recklessly by the applicant'*.
92. Following consideration of the points raised the applicant was contacted in relation to the matters raised and asked to clarify the situation, addressing any errors by serving the appropriate notice. The applicant advised that a land registry check had been undertaken on the land concerned and it was unregistered, with LCCC and NIHE also not registered, but noted that it was not compulsory to register land with Land Registry before 2000. Maps relating to ownership provided by LCCC and NIHE were submitted in support of this position. Further correspondence from the applicant was received following a further request for clarification that they were content with the ownership status provided with the completed certificate. The applicant subsequently advised they were content.
93. A further representation was received in relation to points previously made in the initial objection. The objector further noted that the applicant *'states that there is no public right of way when in fact a public right of way runs through the designated land'*. It also noted that the applicant proceeded to investigate title with the Council after the objection had been received, *'confirming that the certificate had been issued recklessly'*. Further details relating to the title/conveyance

documents were raised, including that the Estate of Sir Richard Wallace Baronet MP.

94. The points raised in the further objection received was shared with the applicant and the Council requested further clarification on these matters. Subsequent to this an amended application form serving notice on the two individuals previously noted but amending the date on which this was completed was received and this was subsequently re-neighbour notified. No further amendment on the revised application form to the presence of the public right of way has been received.
95. Further correspondence was received from the objector which detailed direct correspondence between himself and the assets branch within LCCC. In this he detailed two deeds and associated maps and requested confirmation that these are the only two deeds in relation to this parcel of ground that LCCC hold and that the title has been fully investigated in relation to his objection against this application.
96. In this case the applicant has been asked for clarification several times in relation to this point and has provided such clarification both through emails and an amended application form. The applicant advised that the two interested parties in question (LCCC and NIHE) were served notice on 28/09/23. Ultimately whether these notices were received by the intended recipient or whether such interested parties, including the objector, agrees to the use of the land for the proposed purpose is a civil matter between the parties concerned and the permission would go with the land and does not confer title. It is considered the appropriate checks of the issues raised have been undertaken within the appropriate parameters of the planning application process.

## Conclusions

97. For the reasons outlined above it is considered that the proposal complies with Policy OS1 of the LCCC Plan Strategy.

98. The application would be compliant with Policies HE2 and HE4 of the Plan Strategy.
99. The application on balance would comply with Policies NH1, NH2 and NH5 of the Plan Strategy.
100. The proposal would be in keeping with Policy TRA8 of the Plan Strategy.
101. The application is an exception to FLD1 and satisfies FLD2 of the Plan Strategy.

### Recommendations

102. It is recommended that planning permission is approved subject to conditions.

103. The following Conditions area recommended:

- 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

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



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

- No site works of any nature or development shall take place other than in accordance with the program of archaeological work approved under Condition 2.

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

- A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 2. These measures shall be implemented, and a final archaeological report shall be submitted to Lisburn & Castlereagh City Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Lisburn & Castlereagh City Council.

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

- Construction works that are required by necessity within the Root Protection Area of any tree that is to be retained shall be carried out using hand dig methods of construction only.

Reason: To ensure damage is not caused to retained trees by the development hereby approved.

- Where permanent surfaces are to be constructed close to retained trees within the zone of protection, as identified on Tree Impact Drawing North (Drawing No. 07) and Tree Impact Drawing South (Drawing no.8), both published on the Planning Portal on the 7th January 2025, these must be finished with a porous surface

finish such as pavers or porous bitmac and carried out as per the details in the Tree Survey and Report by Dr Philip Blackstock (Dated August 2024).

Reason: To ensure damage is not caused to retained trees by the development hereby approved.

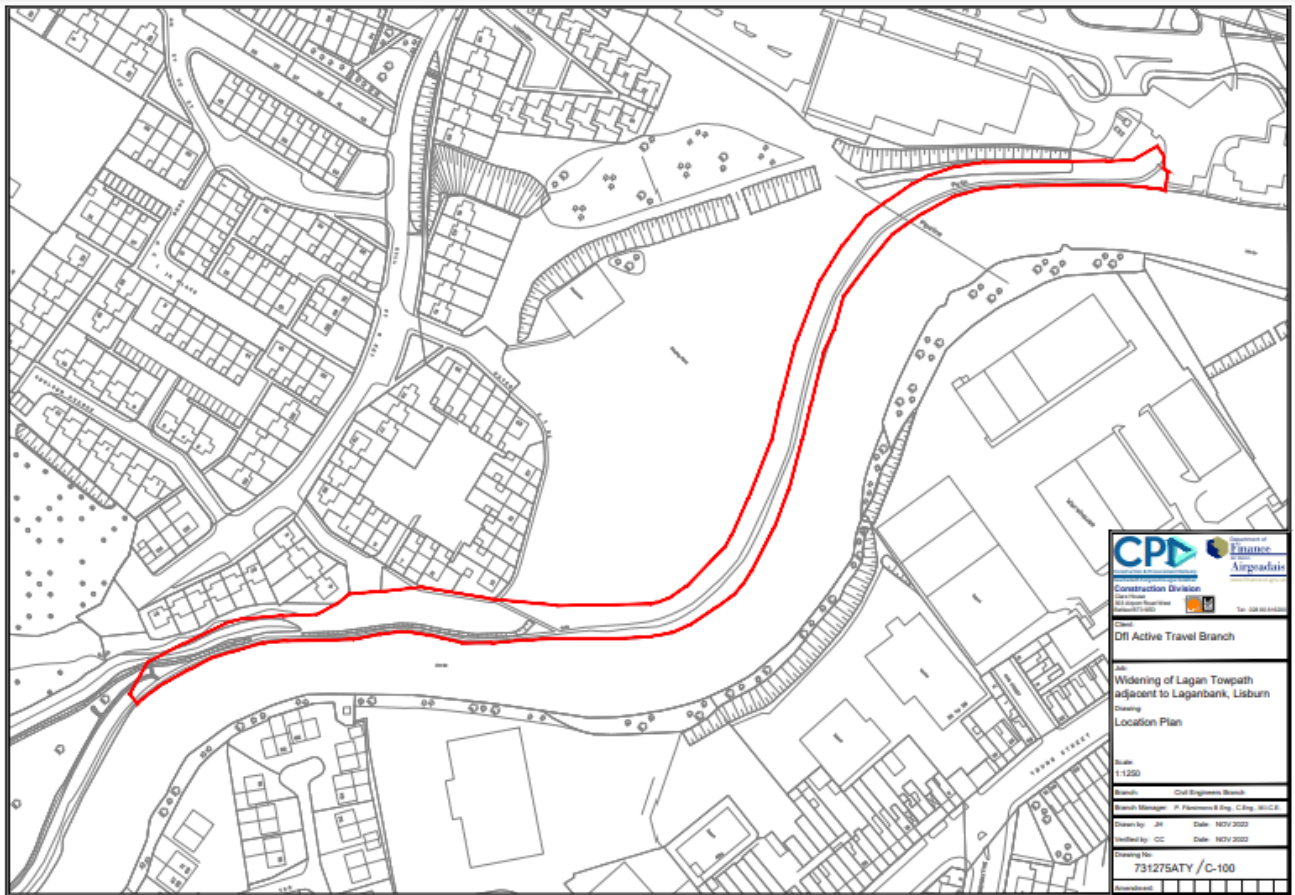
- Prior to works commencing on site, all existing trees shown on Proposed site layout 02B, as being retained shall be protected by appropriate fencing in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction – Recommendations. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority.

Reason: To ensure the protection of potential bat roosts.

- Once a contractor has been appointed, a Construction Environmental Management Plan (CEMP) should be submitted to the Planning Authority for their written agreement prior to works commencing on site.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment prior to works beginning on site

### Site Location Plan – LA05/2024/0268/F



<b>Committee:</b>	Planning Committee
<b>Date:</b>	03 February 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 2 – Appeal Decision – LA05/2020/0771/O

## 1.0 **Background**

1. An application for a dwelling and garage on a farm on land 360 metres north west of 2 Shore Road, Ballinderry Upper Lisburn was refused planning permission on 14 March 2023.
2. Notification that an appeal had been lodged with the Planning Appeals Commission was received on 11 July 2023.
3. The written representation procedure was followed with an accompanied site visit taking place on 27 February 2024.
4. The main issues in the appeal are whether the proposed development is acceptable in principle in the open countryside and its impact on visual amenity and rural character are the area.
5. A decision received on 07 January 2025 reported that the appeal was dismissed.

## **Key Issues**

1. The Commissioner concluded that there were no buildings in the vicinity of the appeal site to cluster with and that the established group of buildings on the farm, were located approximately 700 metres to the southeast of the appeal site.
2. The Appellant stated as part of their evidence that providing a site for the proposed dwelling and garage at the existing farm buildings would result in the loss of a half of an acre of land and that in combination with the recent loss of the option to take land in con-acre, would preclude the farm business from continuing to operate at its current level.
3. The Commissioner concluded that no persuasive evidence was submitted to demonstrate health and safety reasons for locating a dwelling remote from the established group of buildings on the farm and nor were any plans submitted in relation to expanding the farm at the existing buildings.
4. The Commissioner agreed with the Council that the proposed standalone dwelling and garage, notwithstanding that views of it would be short, would have a negative impact on visual amenity and it would also have an adverse impact on the rural character of the area.

	<p>5. The Commissioner accepted that the Council had sustained its four reasons for refusal based upon Policies COU 1, COU 10, COU 15 and COU 16 of the PS. This decision confirms the importance of giving careful consideration to the siting of new dwellings and farm and that they are clustered with existing groups of buildings.</p>	
2.0	<p><b><u>Recommendation</u></b></p> <p>It is recommended that the Committee notes the report and decision of the Commission in respect of this appeal.</p>	
3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>No cost claim was lodged by any party in this instance.</p>	
4.0	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out</p> <p>This is a report updating the committee on a decision by the PAC and EQIA is not required.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.</p> <p>This is a report updating the committee on a decision by the PAC and RNIA is not required.</p>	

**Appendices:**

Appendix 2 – Appeal Decision – LA05/2020/0771/O



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Lisburn & Castlereagh City Council  
Local Planning Office

By Email Only

Our reference: 2023/A0027  
Authority  
reference: LA05/2020/0771/O  
7 January 2025

Dear Sir / Madam,

**Re:**

**Appellant name: Tori Farr**

**Description: Dwelling and garage on a farm**

**Location: 360m north west of 2 Shore Road, Ballinderry Upper, Lisburn**

Please find enclosed Commission decision on the above case.

Yours Sincerely,

Robert Reilly  
PACWAC Admin Team



# Appeal Decision

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<b>Appeal Reference:</b>	2023/A0027
<b>Appeal by:</b>	Ms Farr
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Dwelling and garage on a farm
<b>Location:</b>	360m north-west of 2 Shore Road, Ballinderry Upper, Lisburn
<b>Planning Authority:</b>	Lisburn and Castlereagh City Council
<b>Application Reference:</b>	LA05/2020/0771/O
<b>Procedure:</b>	Written representations and accompanied site visit on 27 February 2024
<b>Decision by:</b>	Commissioner McShane, dated 7 January 2025.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are:
  - whether the proposed development is acceptable in principle; and
  - its impact on visual amenity and rural character.
3. Section 45(1) of the Planning Act (NI) 2011 (the Act) requires the Commission when 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. In September 2023, the Lisburn and Castlereagh City Council adopted its Plan Strategy (PS). Its purpose is to provide the strategic policy framework for the plan area. As the Council has adopted the PS, the previously retained policies, set out in the suite of regional Planning Policy Statements (PPSs), have ceased to have effect within the Council area. The Council provided revised reasons for refusal based upon the PS in its Statement of Case. The Appellant had the opportunity to comment.
5. In line with the transitional arrangements, set out in the Schedule to the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 (as amended), the LDP now becomes a combination of the Departmental Development Plan (DDP) and the PS read together. In this appeal, the Lisburn Area Plan (2001) constitutes the relevant DDP. In accordance with the subject legislation, any conflict between

- a policy contained in the DDP and those of the PS must be resolved in favour of the latter.
6. In the DDP, the appeal site is in the open countryside, outside any designated settlement development limit. There are no operational policies in the DDP that are pertinent to the appeal proposal. Therefore, I turn to the pertinent policies in the PS.
  7. Policy COU 1 of the PS: Development in the Countryside, states that there are a range of types of development which in principle are acceptable in the countryside and that will contribute to the aims of sustainable development. The Appellant argues that the appeal proposal comprises a dwelling on a farm in accordance with Policy COU 10 of the PS.
  8. Policy COU 10 states that planning permission will be granted for a dwelling house on a farm where three criteria are met. The parties dispute Criterion (c), which requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm.
  9. The appeal site is located north of Shore Road with the lough shore beyond to the north. Notwithstanding a planning application for a stable block on land immediately adjacent, there are no buildings in the vicinity of the appeal site. Significantly, the established group of buildings on the farm, which are located at No.1 Ballyvannon Road, are approximately 700m to the southeast of the appeal site, as the crow flies. Contrary to Policy COU 10, the proposed development is neither visually linked nor sited to cluster with the established group of buildings on the farm.
  10. Policy COU 10 goes on to state that exceptionally, consideration may be given to an alternative site elsewhere on the farm provided it is demonstrated there are no other sites available at another group of buildings on the farm or out-farm, and where there are either: demonstrable health and safety reasons; or verifiable plans to expand the farm business at the existing building group.
  11. The Appellant states that providing a site for the proposed dwelling and garage at the existing farm buildings would result in the loss of a half of an acre of land. It is claimed that this, in combination with the recent loss of the option to take land in con acre, would preclude the farm business from continuing to operate at its current level.
  12. I note, however, that the farm is substantial and while a field historically taken in con acre by the Appellant's family appears to no longer be on offer, there is no indication that other lands in the vicinity would not be available. Ms Farr works on the farm full time and is getting married. However, her current address is Lower Ballinderry, a short distance from the farm. These circumstances do not justify setting policy aside.
  13. No persuasive evidence was submitted to demonstrate health and safety reasons for locating a dwelling remote from the established group of buildings on the farm and nor were any plans submitted in relation to expanding the farm at the existing buildings. The Council has sustained its first and second reasons for refusal based upon Policies COU 1 and COU 10 of the PS.



14. Criterion (b) of Policy COU 15: Integration and Design of Buildings in the Countryside, and Criteria (b) and (e) of Policy COU 16: Rural Character and other Criteria, state that a new building / development proposal will not be permitted if it is not sited to cluster with an established group of buildings and / or has an adverse impact on the rural character of the area. The objective of these policies is to protect visual amenity and rural character. The proposed stand alone dwelling and garage, notwithstanding that views of it would be short, would have a negative impact on visual amenity and it would also have an adverse impact on the rural character of the area. The Council has sustained its third and fourth reasons for refusal based upon Policies COU 15 and COU 16 of the PS.
15. The Council has sustained its four reasons for refusal based upon Policies COU 1, COU 10, COU 15 and COU 16 of the PS. In line with the wording of the transitional arrangements in the 2015 LDP Regulations, as there is no conflict arising when reading both the DDP and the PS together, the appeal development does not accord with the LDP for the reasons stated. Accordingly, the appeal must fail.

This decision is based on the following drawing:-

- LPA Drwg No.01: Site Location Plan (Scale 1:2500)

## **COMMISSIONER MCSHANE**

2023/A0027

**List of Appearances**

Planning Authority:- Mr Burns  
(Lisburn and Castlereagh City Council)

Appellant :- Mr McKernan  
(J E McKernan & Son)  
Ms V Farr  
Mr J Farr

**List of Documents**

Planning Authority:- "LPA 1" Statement of Case and Appendices  
"LPA 2" Rebuttal Statement

Appellant:- "APP 1" Statement of Case



<b>Committee:</b>	Planning Committee
<b>Date:</b>	03 February 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 3 – Appeal Decisions – LA05/2021/0947/O & LA05/2021/0948/O

## 1.0 **Background**

1. Two applications for dwellings and garages on lands immediately west of 161 Ballynahinch Road, Hillsborough and approximately 80 metres west of 16 Ballynahinch Road, Hillsborough were refused planning permission on 13 January 2023.
2. Notification that appeals against the two refusals of permission had been lodged with the Planning Appeals Commission were received on 9 February 2023 and 14 March 2023.
3. The written representation procedure was followed with the Commissioner conducting a site visit for both applications on 13 November 2024.
4. The main issues in the appeal are whether the proposed development would be acceptable in principle in the countryside, create ribbon development and result in a change to the rural character of the area.
5. Decisions received on 18 December 2024 indicated that both appeals were dismissed.

### **Key Issues**

1. The two appeal sites were located side by side within the same field to the west of a dwelling and garage at No.161 Ballynahinch Road. Appeal Site 1 was located in the eastern side of the field directly adjacent to No.161.
2. The appellant relied upon the dwelling at No.18 Spirehill Road and the dwelling and garage at No.161 Ballynahinch Road to provide what they considered to be the substantial and continuously built-up frontage for each of the proposals to qualify as an exception to Policy COU 8.
3. Both the appellant and the Council agreed that the dwelling at No.161 has a frontage to the road. The Commissioner concluded that its ancillary garage was precluded from being included in the consideration of whether there was a substantial and continuously built-up frontage given the wording of the policy.
4. In respect of the dwelling at No.18 Spirehill Road the Commissioner also accepted that a building's frontage 'must extend to the edge of the public road or private laneway and not be separated from it by land or development outside of its curtilage' As the dwelling at No.18 Spirehill Road does not have a frontage onto the

Ballynahinch Road the Commissioner further concluded that there can be no gap as prescribed by the policy.

5. The Commissioner also highlighted in her report that even if it was accepted that No.18 presented a frontage to the Ballynahinch Road, there would not be a line of four or more buildings, of which at least two are dwellings, excluding domestic ancillary buildings such as garages, sheds and greenhouses. She concluded there was no substantial and continuously built-up frontage in this case that there was only one qualifying dwelling, so there is no existing pattern of development of which to assess the proposals against. As a consequence, the proposed dwelling would create a ribbon of development.
6. The Commissioner also accepted that both proposals could not be integrated into the landscape and would harm the rural character of the area.
7. The Council's four reasons for refusal in each appeal were sustained. The question of whether one of the dwellings had frontage to the road was debated at committee. Members will note that Commissioner agreement with how the policy in relation buildings counted in the same road frontage and that policy was applied correctly.

## 2.0 **Recommendation**

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

## 3.0 **Finance and Resource Implications**

No cost claim was lodged by any party in this instance.

## 4.0 **Equality/Good Relations and Rural Needs Impact Assessments**

4.1	Has an equality and good relations screening been carried out?	No
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4.2	Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out  This is a report updating the committee on a decision by the PAC and EQIA is not required.	
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4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
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4.4	Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.  This is a report updating the committee on a decision by the PAC and RNIA is not required.	
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## Appendices:

Appendix 3 – Appeal Decision – LA05/2021/0947/O & LA05/2021/0948/O



# Appeal Decisions

4<sup>th</sup> Floor  
92 Ann Street  
BELFAST  
BT1 3HH  
T: 028 9024 4710  
E: info@pacni.gov.uk

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**Appeal Reference:** 2022/A0189 (Appeal 1)  
**Appeal by:** Mr Clive Grudgings  
**Appeal against:** The refusal of outline planning permission  
**Proposed Development:** Site for dwelling and garage  
**Location:** Site 2 immediately west of 161 Ballynahinch Road. Hillsborough  
**Planning Authority:** Lisburn and Castlereagh City Council  
**Application Reference:** LA05/2021/0947/O  
**Procedure:** Written Representations with Commissioner's site visit on 13<sup>th</sup> November 2024  
**Decision by:** Commissioner Diane O'Neill, dated 18th December 2024

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**Appeal Reference:** 2022/A0190 (Appeal 2)  
**Appeal by:** Mr Clive Grudgings  
**Appeal against:** The refusal of outline planning permission  
**Proposed Development:** Site for dwelling and garage  
**Location:** Site 1 approximately 80m west of 161 Ballynahinch Road. Hillsborough  
**Planning Authority:** Lisburn and Castlereagh City Council  
**Application Reference:** LA05/2021/0948/O  
**Procedure:** Written Representations with Commissioner's site visit on 13<sup>th</sup> November 2024  
**Decision by:** Commissioner Diane O'Neill, dated 18<sup>th</sup> December 2024

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## Decisions

1. Appeal 1 is dismissed.
2. Appeal 2 is dismissed.

## Preliminary Matter

3. The Council's decisions on both planning applications issued prior to the adoption of the Lisburn and Castlereagh City Council Local Development Plan 2032 Plan Strategy (PS) in September 2023. The Commission subsequently wrote to the parties inviting them to comment on the PS insofar as it related to the appeal proposals.
4. The Council provided revised reasons for refusal based on more recent policy within their PS. These decisions are based on the revised reasons for refusal. No comments on the revised reasons for refusal were received from the appellant.

## Reasons

5. The main issues in each appeal are whether the proposed development:
  - would be acceptable in principle in the countryside
  - create ribbon development, and
  - result in a change to the rural character of the area
6. Section 45(1) of the Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan, 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 local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Paragraph 3 of the Schedule of the Planning (Local Development Plan) Regulations (NI) 2015 (as amended) states that where a plan strategy (PS) is adopted by a council a reference to the local development plan in the 2011 Act is a reference to the departmental development plan (DDP) and the plan strategy read together. Any conflict between a policy contained in a departmental development plan and those of the plan strategy must be resolved in favour of the plan strategy.
7. On 26<sup>th</sup> September 2023 the Council adopted their PS. This sets out the Council's objectives in relation to the development and use of land in its district and its strategic policies for implementing those objectives. The Lisburn Area Plan 2001 (LAP) operates as the DDP for the area with the draft Belfast Metropolitan Area Plan 2004 (dBMAP) remaining a material consideration in certain circumstances. In LAP the sites are located within the Green Belt. No other policies in the LAP are relevant to these proposals. The dBMAP also locates the appeal sites within the Green Belt with no other policies pertinent to the appeal proposals. However, whilst the Green Belt policies have been overtaken by regional policy, with the adoption of the PS, previously retained policies under the transitional arrangements outlined within the SPPS and contained within the Planning Policy Statements (PPSs) have ceased to have effect within the district and are now no longer material.
8. Within the PS both sites are located in the countryside and Policy COU 1 'Development in the Countryside' 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 justification and amplification text of Policy COU 1 recognises that pressure for development must be balanced against the needs of rural communities. As well as having to meet Policies COU 2-10, any proposal for development in the countryside is also required to meet all the general criteria set out in Policies COU 15-16. Policy COU 1 is the basis for the first reason for refusal germane to both appeals. The Council also raised concern in relation to Policies COU 8, 15 and 16. Irrespective of comments made by the case officer in their reports, it is the final Council position, which is reflected in the reasons for refusal, which I will assess.
9. Policy COU 8 relates to infill/ribbon development. It is stated that planning permission will be refused for a building which creates or adds to a ribbon of development. Exceptionally, it adds that there may be situations where the development of a small gap, sufficient to accommodate two dwellings within an otherwise substantial and continuously built-up frontage, may be acceptable. It is

added that for the purpose of this policy a substantial and continuously built-up frontage is a line of 4 or more buildings, of which at least 2 must be dwellings, excluding domestic ancillary buildings such as garages, sheds and greenhouses, adjacent to a public road or private laneway. The proposed dwellings must respect the existing pattern of development in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings that constitute the frontage of development. Buildings forming a substantial and continuously built-up frontage must be visually linked. The justification and amplification states that, for the purpose of this policy, a building's frontage must extend to the edge of the public road or private laneway and not be separated from it by land or development outside of its curtilage.

10. The two appeal sites are located side by side within the same field to the west of a secluded dwelling and garage at No.161 Ballynahinch Road. Appeal Site 1 is in the eastern side of the field directly adjacent to No.161. While the field is undulating, it falls away quite steeply in a westerly direction. The boundaries of the field are primarily defined by mature hedgerow interspersed with trees however the common boundary between the two sites is undefined. Access to both sites would be via a new dual access opening located adjacent to the existing access into No. 161. The access to Appeal Site 2 would run along the roadside frontage of Appeal Site 1 with a new hedgerow proposed behind the visibility splays. To the west of Appeal Site 2 is a dwelling (No.18 Spirehill Road) which is accessed via the Spirehill Road.
11. The appellant relied upon the dwelling at No.18 Spirehill Road and the dwelling and garage at No.161 Ballynahinch Road to provide what they considered to be the substantial and continuously built-up frontage for each of the proposals to qualify as an exception to Policy COU 8. Both the appellant and the Council agreed that the dwelling at No.161 has a frontage to the road. However, its ancillary garage is precluded from being included in the consideration of whether there is a substantial and continuously built-up frontage given the wording of the policy.
12. In terms of the dwelling at No.18 Spirehill Road, while it faces towards the Ballynahinch Road it is accessed via Spirehill Road. The owner of No.18 owns a substantial grassed area to the south of the dwelling which falls steeply in a southerly direction towards the Ballynahinch Road. However, while this grassed area is accessible from the dwelling and enclosed by fencing, the fencing directly south of the dwelling serves to separate this area from the curtilage of No.18. There is also a considerable vegetated embankment and vehicle restraint system barrier located on the southern side of the roadside fence between the grassed area and the Ballynahinch Road.
13. As a building's frontage 'must extend to the edge of the public road or private laneway and not be separated from it by land or development outside of its curtilage', the dwelling at No.18 Spirehill Road does not have a frontage onto the Ballynahinch Road. Consequently, there can be no gap as prescribed by the policy. Even if it was accepted that No.18 presented a frontage to the Ballynahinch Road, there would not be a line of four or more buildings, of which at least two are dwellings, excluding domestic ancillary buildings such as garages, sheds and greenhouses. There is no substantial and continuously built-up frontage in this



case as there is only one qualifying dwelling, so there is no existing pattern of development of which to assess the proposals against.

14. For the reason given, there is no substantial and continuously built-up frontage in line with the exception to Policy COU 8. Driving in either direction along the Ballynahinch Road, each of the appeal proposals would share a frontage and be visually linked with the dwelling to the east of the appeal sites at No. 161 Ballynahinch Road. They individually and cumulatively would create a ribbon of development. The appellant referred to other planning applications and appeal decisions including 2013/A0189 and 2018/A0208 however full details of these cases were not provided to allow for comparison. In any event, each case is assessed on its own merits and within its own evidential context. The Council's second reasons for refusal are sustained in both appeals.
15. Policy COU 16, which is the basis for the fourth reasons for refusal, states that in all circumstances proposals for development in the countryside must be in accordance with and must not cause a detrimental change to, or further erode the rural character of an area. A new proposal will be unacceptable where it is contrary to a number of criteria including that it does not respect the traditional pattern of settlement exhibited in that area; results in urban sprawl and has an adverse impact on the rural character of the area.
16. Development on either or both appeal sites would visually link with the residential development at No. 18 Spirehill Road and No. 161 Ballynahinch Road creating a ribbon of development. This would appear suburban in nature and would not respect the traditional dispersed settlement pattern in the wider area. It would add to development along the Ballynahinch Road, creating a built-up appearance, and would erode the rural character of the area. Both proposals therefore fail to meet criteria (c) and (e) of Policy COU 16.
17. The Council also raised concern about the prominence of the proposals in the landscape. This is part of the third (criterion a of Policy COU 15) and fourth (criterion a of Policy COU 16) reasons for refusal. The undulating nature of the field, the relatively low nature of the roadside screening and the lack of backdrop would result in a dwelling and garage on Appeal Site 1 appearing prominent in the landscape. In terms of Appeal Site 2 however, given that the field falls away in a westerly direction, a modest dwelling and garage could be accommodated on this lower lying part of the field without it appearing prominent in the landscape. As a result, the Council's fourth reason for refusal based on Policy COU 16 is sustained in its entirety in Appeal 1 and only in relation to criteria (c) and (e) in Appeal 2.
18. In terms of visual integration, irrespective of the suggested ridge height restrictions and lack of prominence of Appeal 2, both sites lack sufficient enclosure given that this is a largely open, undulating field with no definition along the common boundary between the sites. The provision of visibility splays of 2.4m x 120m for the proposed access arrangement would require the removal of a substantial amount of the roadside hedgerow, further opening the sites up to view. This would be contrary to criterion (d) of Policy COU 15. The proposed planting, including that behind the visibility splays, would take a long time to mature before it could successfully aid the integration of the proposals contrary to criterion (e) of Policy COU 15. As a result, the Council's third reason for refusal based on Policy COU

15 is sustained in its entirety in relation to Appeal 1 and only in relation to criteria (d) and (e) in Appeal 2.

19. As both appeals fail to comply with Policies COU 8, COU 15 and COU 16 to the extent identified, they also fail to comply with Policy COU 1 of the PS.
20. The Council's four reasons for refusal in each appeal are therefore sustained as specified above. Accordingly, both appeals must fail.

These decisions are based on the following drawings:-

**2022/A0189 (Appeal 1)**

Drawing 01 1:2500 site location map date stamped by the Council on 26<sup>th</sup> August 2021  
Drawing 02 1:500 existing site plan date stamped by the Council on 26<sup>th</sup> August 2021  
Drawing 03 1:500 proposed site plan date stamped by the Council on 26<sup>th</sup> August 2021  
Drawing 04 1:250 visibility splay sections date stamped by the Council on 26<sup>th</sup> August 2021

**2022/A0190 (Appeal 2)**

Drawing 01 1:2500 site location map date stamped by the Council on 26<sup>th</sup> August 2021  
Drawing 02 1:500 existing site plan date stamped by the Council on 26<sup>th</sup> August 2021  
Drawing 03 1:500 proposed site plan date stamped by the Council on 26<sup>th</sup> August 2021  
Drawing 04 1:250 visibility splay sections date stamped by the Council on 26<sup>th</sup> August 2021

**COMMISSIONER DIANE O'NEILL**

**List of Documents for 2022/A0189 (Appeal 1)**

Planning Authority  
(Lisburn and Castlereagh City Council):-

Statement of Case (PA 1)  
Rebuttal (PA 2)  
Comment on PS (PA 3)

Appellant (Ms Claire Millar-agent):-

Statement of Case (A 1)  
Rebuttal (A 2)

**List of Documents for 2022/A0190 (Appeal 2)**

Planning Authority  
(Lisburn and Castlereagh City Council):-

Statement of Case (PA 1)  
Rebuttal (PA 2)  
Comment on PS (PA 3)

Appellant (Ms Claire Millar-agent):-

Statement of Case (A 1)  
Rebuttal (A 2)



<b>Committee:</b>	Planning Committee
<b>Date:</b>	03 February 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 4 – Quarter 2 Statistical Bulletin – July to September 2024/25

1.0	<p><b><u>Background</u></b></p> <ol style="list-style-type: none"> <li>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 function.</li> <li>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.</li> </ol> <p><b><u>Key Issues</u></b></p> <ol style="list-style-type: none"> <li>1. The DfI Northern Ireland Planning Statistics covering the second quarter of 2024/25 were published on 12 December 2024.</li> <li>2. The Bulletin provides an overview of planning activity across Northern Ireland. It provides summary statistical information on Council progress across the three statutory targets for major development applications, local development applications and enforcement cases as laid out in the Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015.</li> <li>3. A copy of the documents can be accessed via the link:  <a href="https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-july-september-2024">https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-july-september-2024</a></li> <li>4. The bulletin notes that:             <ul style="list-style-type: none"> <li>• There were 2,371 planning applications received in Northern Ireland (NI) during the second quarter of 2024/25; a decrease of six percent on the previous quarter and a similar number as the same period a year earlier. This comprised of 2,330 local and 41 major applications.</li> <li>• The biggest fall in the percentage number of applications received in Q2 when compared to the same quarter last year across all the Council Areas was in the Lisburn and Castlereagh City Council Area. Application numbers are down by 17.6%.</li> </ul> </li> </ol>
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- In the second quarter of 2024/25, 2,297 planning applications were decided, a decrease of one percent from the previous quarter and down by two percent from the same period a year earlier. Decisions were issued on 2,259 local and 38 major applications during the most recent quarter.
- The biggest increase in the percentage number of applications decided in Q2 when compared to the same quarter last year across all the Council Areas was in the Lisburn and Castlereagh City Council Area. The number of applications decided are up by 33.8%.
- The average processing time for local applications brought to a decision or withdrawal during the first six months of 2024/25 was 18.8 weeks across all Councils. This exceeds the 15-week target but represents a slight decrease from the average processing time reported for the same period a year earlier (19.4 weeks). Four of the 11 Councils were within the 15-week target after the first six months of 2024/25.
- There is a significant decrease in the number of weeks applications are in process in the Lisburn and Castlereagh City Council Area consistent with our performance improvement objectives for reducing processing times and the backlog of older applications.
- The average processing time for major applications brought to a decision or withdrawal during the first six months of 2024/25 was 42.0 weeks across all Councils. This exceeds the 30-week target and is an increase of six weeks compared with the same period a year earlier.
- This Council continues to demonstrate good performance in processing major applications when compared with other Councils across Northern Ireland. The numbers of applications falling into this category remain small.
- Across Councils 68.1% of enforcement cases were concluded within 39 weeks during the first six months of 2024/25. This represents a decrease from the rate recorded in 2023/24 (77.5%). Individually, six of the 11 Councils were meeting the 70% target in after the first six months of 2024/25.
- Performance in this Council Area is average when compared with other Council areas and slightly down on last year. Changes are made to the structure of this team which will allow for improved performance as we move towards year end.

**Recommendation**

It is recommended that the Committee notes the information in relation to the Quarter 2 Statistical Bulletin.

3.0 **Finance and Resource Implications**

There are no finance or resource implications.

4.0 **Equality/Good Relations and Rural Needs Impact Assessments**

4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b>or</b> rationale why the screening was not carried out</p> <p>This is a report about Planning Statistics covering the second quarter of 2024/25 and EQIA is not required.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <b>or</b> rationale why the screening was not carried out.</p> <p>This is a report about Planning Statistics covering the second quarter of 2024/25 and RNIA is not required.</p>	

<b>Appendices:</b>	
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<b>Committee:</b>	Planning Committee
<b>Date:</b>	03 February 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Decision
<b>Subject:</b>	Item 5 – Proposed amalgamation of units including minor amendments, reconfiguration and extension to mezzanine floor, associated plant and all other site works at Units 3 and 4 (Former Argos and Former Next Home), adjacent to Sainsbury's Superstore, Sprucefield Park.

1.0	<p><b><u>Background</u></b></p> <p>1. Section 27 of the Planning Act (Northern Ireland) 2011 requires a prospective applicant, prior to submitting a major application, to give notice to the appropriate Council that an application for planning permission is to be submitted.</p> <p><b><u>Key Issues</u></b></p> <p>2. Section 27 (4) of the Planning Act (Northern Ireland) 2011 stipulates what information a PAN must contain. The attached report sets out how the requirement of the legislation and associated guidance has been considered as part of the submission.</p>	
2.0	<p><b><u>Recommendation</u></b></p> <p>It is recommended that the Members note the information on the content of the Pre-application Notice attached and that it is submitted in accordance with the relevant section of the legislation and related guidance.</p>	
3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>There are no finance and resource implications.</p>	
4.0	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	<p>Brief summary of the key issues identified and proposed mitigating actions <u>or</u> rationale why the screening was not carried out</p> <p>This is a report in relation to the serving of a Pre-Application Notice on the Council in relation to a major application. EQIA is not required.</p>	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No

4.4	<p>Brief summary of the key issues identified and proposed mitigating actions <u>or</u> rationale why the screening was not carried out.</p> <p>This is a report in relation to the serving of a Pre-Application Notice on the Council in relation to a major application. RNIA is not required.</p>	
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<b>Appendices:</b>	<p><b>Appendix 5(a)</b> - Report in relation to LA05/2024/0932/PAN</p> <p><b>Appendix 5(b)</b> – LA05/2024/0932/PAN – PAN Form</p> <p><b>Appendix 5(c)</b> – LA05/2024/0932/PAN – Site Location Plan</p>
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## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	03 February 2025
Responsible Officer	Conor Hughes
Date of Report	17 January 2025
File Reference	LA05/2024/0932/PAN
Legislation	Section 27 of the Planning Act (Northern Ireland) 2011
Subject	Pre-Application Notice (PAN)
Attachments	PAN Form and Site Location Plan

### Purpose of the Report

1. The purpose of this report is to advise Members of receipt of a Pre-Application Notice (PAN) from New River (Sprucefield) Ltd. for the proposed submission of and application the amalgamation of two retail units including minor amendments, reconfiguration and extension to mezzanine floor, associated plant and all other site works at Units 3 and 4 (Former Argos and Former Next Home), adjacent to Sainsbury's Superstore at Sprucefield Park Lisburn.

### Background Detail

2. Section 27 of the Planning Act (Northern Ireland) 2011 requires that a prospective applicant, prior to submitting a major application must give notice to the appropriate council that an application for planning permission for the development is to be submitted.
3. It is stipulated that there must be at least 12 weeks between the applicant giving the notice (through the PAN) and submitting any such application.
4. The PAN for the above-described development was received on 19 December 2024. The earliest possible date for the submission of a planning application is week commencing 17 March 2025.

### Consideration of PAN Detail

5. Section 27 (4) stipulates that the PAN must contain:  
**A description in general terms of the development to be carried out;**
6. The description associated with the FORM PAN1 is as described above.

7. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is considered that an adequate description of the proposed development has been provided.

**The postal address of the site, (if it has one).**

8. The postal address identified on the FORM PAN1 is as described above.
9. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that an adequate description of the location has been provided.

**A plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site.**

10. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that a site location plan with the extent of the site outlined in red and submitted with the PAN form is sufficient to identify the extent of the site.

**Details of how the prospective applicant may be contacted and corresponded with.**

11. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10 it is noted that the FORM PAN1 as amended and associated covering letter includes details of how the prospective applicant may be contacted and corresponded with.
12. The Form PAN1 includes the name and address of the agent. Any person wishing to make comments on the proposals or obtain further information can contact the agent TSA Planning, 20 May Street, Belfast.
13. In addition to the matters listed above, regulation 4 of the Planning (Development Management) Regulations (Northern Ireland) 2015 sets out that a PAN must also contain the following.

**A copy (where applicable) of any determination made under Regulation 7 (1)(a) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 in relation to the development to which the proposal of application notice relates.**

14. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 that the FORM PAN 1 indicates that no environmental impact assessment determination has been made.
15. It is accepted that this reference is made without prejudice to any future determination being made or the applicant volunteering an Environmental Statement.

**A copy of any notice served by the Department under Section 26(4) or (6) i.e. confirmation (or not) of the Department's jurisdiction on regionally significant developments**

16. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 it is considered that the form of development proposed is not specified in the Planning (Development Management) Regulations (Northern Ireland) 2015 as a major development (i.e. regionally significant) prescribed for the purpose of section 26 (1) of the Planning Act (Northern Ireland) 2011 and it is noted that consultation with the Department has not taken place.

**An account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take**

17. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 the account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take has been provided.

The PAN form indicates that a proposed public event will be held at which a number of large boards will be displayed setting out the nature of the proposal. The event will be held in a meeting room at Premier Inn Lisburn, 136-144 Hillsborough Road, Lisburn and members of the design team will be in attendance. The event will take place between 2:00pm and 7:00pm on 5 February 2025.

The event will be published in the Ulster Star from 20<sup>th</sup> January 2025.

A Notification letter will issue to all properties within 200 metres of the site boundary week commencing 20 December 2024.

A copy of the Notice also issued to Elected Members of the DEA and others as identified on the PAN form on 20 December 2024.

## Recommendation

18. In consideration of the detail submitted with the Pre-Application Notice (PAN) in respect of community consultation, it is recommended that the Committee agrees the information is submitted in accordance with the legislation and related guidance.



[www.lisburncastlereagh.gov.uk/resident/planning](http://www.lisburncastlereagh.gov.uk/resident/planning)  
Lisburn & Castlereagh City Council, Civic Headquarters, Lagan Valley Island, Lisburn, BT27 4RL  
Tel: 028 9244 7300  
E-mail: [planning@lisburncastlereagh.gov.uk](mailto:planning@lisburncastlereagh.gov.uk)

### Proposal of application notice

### Planning Act (Northern Ireland) 2011

#### Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Are you an agent acting on behalf of the applicant?

- Yes
- No

#### Applicant Details

Name/Company

Title

First name

Surname

Company Name

#### Address

Address line 1

Address line 2

Address line 3

Town/City

W1T 4DE

Country

United Kingdom

185

### Contact Details

Telephone number

Mobile number

Email address

### Agent Details

Name/Company

Company / Organisation

TSA Planning

Title

Mrs

First name

Emma

Surname

Mcllwaine

### Address

Address line 1

20 May Street

Address line 2

Address line 3

Town/City

Belfast

Postcode

BT1 4NL

United Kingdom

### Contact Details

Telephone number

02890434333

Mobile number

Email address

emma@tsaplanning.co.uk

Ref no.

3501 PAN

### Site Address

**Disclaimer:** Recommendations can only be based on the answers given to the questions.

If you cannot provide a postcode, then further details must be provided below for 'Description of site location' by providing the most accurate site description you can in order to help locate the site.

Number  Suffix

Property Name

Address Line 1

-

Address Line 2

Town/city

Postcode

### Description of site location (must be completed if postcode is not known)

Description

Units 3 and 4 (Former Argos and Former Next Home), Adjacent to Sainsbury's Superstore, Sprucefield Park, BT21 5UJ

Easting co-ordinates (x)

325259

361959

### Site Area

What is the area of the site?

0.5 Hectares

Please give a concise and accurate description of all elements of the proposed development that requires consent, including the purpose for which the land / buildings are to be used. Provide details of all buildings proposed and any ancillary works including access arrangements associated with the proposal. Please also include details of any demolition if the site falls within a designated area.

### Description of Proposed Development

Please give a brief description of the proposed development

Proposed amalgamation of units including minor amendments, reconfiguration and extension to mezzanine floor, associated plant and all other site works

Please indicate what type of application is being requested

- Outline permission
- Full permission

### Floorspace Summary

Does the proposal include floorspace?

- Yes
- No

What is the total gross floor space of proposed development (sq m)?

4000

### Renewable Energy

Does your proposal involve renewable energy development?

- Yes
- No

### Determinations

Has a determination been made as to whether the proposed development would be of Regional Significance?

- Yes
- No

Has an Environmental Impact Assessment determination previously been made?

- Yes
- No

## Details of Proposed Consultation

Please add separate details for each proposed consultation

Proposed public event: In Person Drop In Event Premier Inn Lisburn, 136-144 Hillsborough Road, Lisburn, BT27 5QY Wednesday 5th February 2025, 2:00pm – 7:00pm  
 Venue: Premier Inn Lisburn, 136-144 Hillsborough Road, Lisburn, BT27 5QY  
 Date and time: 05/02/2025 14:00

**Please add separate details for each publication used for the above consultation**

Publication

Name of publication Ulster Star  
 Proposed advert date start 20/01/2025  
 Proposed advert date finish 24/01/2025

Please specify details of any other consultation methods including distance from site for notifying neighbouring properties (e.g. 100m, 200m etc.) and method of notification (please include date, time and with whom)

An in-person drop-in event will be held in Premier Inn Lisburn, 136-144 Hillsborough Road, Lisburn, BT27 5QY on Wednesday 5th February 2025 from 2:00pm to 7:00pm to allow interested parties to view the display boards for the proposal and provide feedback via printed comment cards. The local elected representatives listed below will be invited to this event. Members of the consultation team will attend the event to answer any questions that local residents and stakeholders may have, and to collect feedback on the proposal.

•A period of identification of key stakeholders such as local community and political representatives and a subsequent engagement program throughout the Community Consultation phase. Electronic copies of the exhibition boards will be issued to the DEA Councillors, constituency MP & MLAs. Information provided will also include details of the drop-in event and a contact number if they require further information.

Details of any other publicity methods (e.g. leaflets, posters)

A neighbourhood information drop will take place to residents within a c.200m radius from the edge of the subject site. Information will be provided via a tri-fold leaflet that includes a comment card. The leaflet will include information on the drop-in event and details of the point of contact within the Technical Team to ask questions, or to provide feedback on the proposal.

A public notice will be published in the local newspaper, the Ulster Star, with additional information including details of the drop-in event & a contact number for any interested parties to speak to a member of the development team. Key stakeholders will also be asked to share details of the consultation event on their social media platforms.

## Details of Other Parties Receiving a copy of this PAN

Are there any other parties receiving a copy of this PAN?

Yes  No

Please state which other parties have received a copy of this Proposal of Application Notice



**Elected member(s) for District Electoral Area:**

Downshire West DEA Councillors - Alderman Allan Ewart (DUP); Alderman Owen Gawith (Alliance); Councillor Alan Martin (UUP); Councillor Caleb McCready (DUP); and Councillor Gretta Thompson (Alliance)

**Date notice served:**

20/12/2024

**Elected member(s) for District Electoral Area:**

Lagan Valley MLAs - Robbie Butler MLA (UUP); Paul Givan MLA (DUP); Michelle Guy MLA (Alliance); David Honeyford MLA (Alliance); and Emma Little-Pengelly MLA (DUP)

**Date notice served:**

20/12/2024

**Elected member(s) for District Electoral Area:**

Lagan Valley MP Sorcha Eastwood MP (Alliance)

**Date notice served:**

20/12/2024

Details for Other Parties

**Other(s):**

LCCC - David Burns – Chief Executive of Lisburn & Castlereagh City Council

**Date notice served:**

20/12/2024

**Authority Employee/Member**

Are you/the applicant/applicant's spouse or partner, a member of staff within the council or an elected member of the council?

Yes

No

Are you/the applicant/the applicant's spouse or partner, a relative of a member of staff in the council or an elected member of the council or their spouse or partner?

Yes

No

It is an important principle of decision-making that the process is open and transparent.

**Declaration**

The information I / We have given is correct and complete to the best of my knowledge and belief.

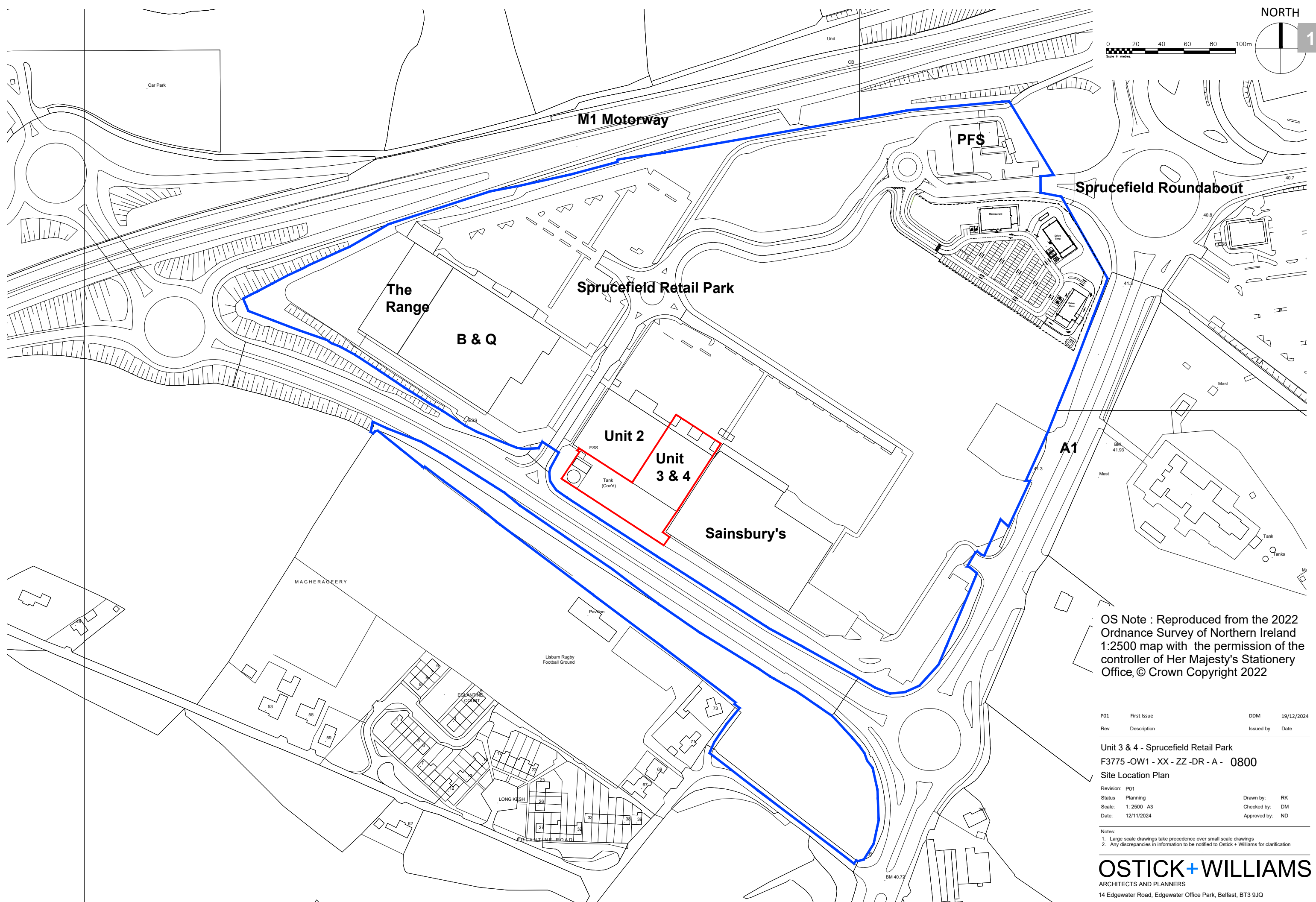
I / We agree to the outlined declaration

Signed

Emma McIlwaine

This information may be shared with other departments within the authority for the purposes of promoting investment. Please indicate by ticking the box below that you are providing your personal data on the basis of consent and are positively agreeing that it is shared with these departments and used for the purpose described, who may contact you and consider tailored support to meet your needs. Please note that availing of this service will have no influence on the planning process or the likelihood of you receiving planning permission.

**I consent for my personal data to be shared with other departments within the authority**



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P01	First Issue	DDM	19/12/2024
Rev	Description	Issued by	Date
Unit 3 & 4 - Sprucefield Retail Park			
F3775 -OW1 - XX - ZZ -DR - A - 0800			
Site Location Plan			
Revision:	P01	Drawn by:	RK
Status:	Planning	Checked by:	DM
Scale:	1:2500 A3	Approved by:	ND
Date:	12/11/2024		

- Notes:
1. Large scale drawings take precedence over small scale drawings
  2. Any discrepancies in information to be notified to Ostick + Williams for clarification

<b>Committee:</b>	Planning Committee
<b>Date:</b>	03 February 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Decision
<b>Subject:</b>	Item 6 – Proposed development of 80 dwelling units, including new access, car parking, landscaping, open space and all associated site works on lands at 70 Belfast Road, Lisburn.

1.0	<b><u>Background</u></b>	
	1. Section 27 of the Planning Act (Northern Ireland) 2011 requires a prospective applicant, prior to submitting a major application, to give notice to the appropriate Council that an application for planning permission is to be submitted.	
	<b><u>Key Issues</u></b>	
	2. Section 27 (4) of the Planning Act (Northern Ireland) 2011 stipulates what information a PAN must contain. The attached report sets out how the requirement of the legislation and associated guidance has been considered as part of the submission.	
2.0	<b><u>Recommendation</u></b>	
	It is recommended that the Members note the information on the content of the Pre-application Notice attached and that it is submitted in accordance with the relevant section of the legislation and related guidance.	
3.0	<b><u>Finance and Resource Implications</u></b>	
	There are no finance and resource implications.	
4.0	<b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	Brief summary of the key issues identified and proposed mitigating actions <b>or</b> rationale why the screening was not carried out	
	This is a report in relation to the serving of a Pre-Application Notice on the Council in relation to a major application. EQIA is not required.	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	Brief summary of the key issues identified and proposed mitigating actions <b>or</b> rationale why the screening was not carried out.	

This is a report in relation to the serving of a Pre-Application Notice on the Council in relation to a major application. RNIA is not required.

- Appendices:**
- Appendix 6(a)** - Report in relation to LA05/2025/0015/PAN
  - Appendix 6(b)** – LA05/2025/0015/PAN – PAN Form
  - Appendix 6(c)** – LA05/2025/0015/PAN – Site Location Plan

## Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	03 February 2025
Responsible Officer	Conor Hughes
Date of Report	17 January 2025
File Reference	LA05/2025/0015/PAN
Legislation	Section 27 of the Planning Act (Northern Ireland) 2011
Subject	Pre-Application Notice (PAN)
Attachments	PAN Form and Site Location Plan

### Purpose of the Report

1. The purpose of this report is to advise Members of receipt of a Pre-Application Notice (PAN) from Lotus Homes (UK) Ltd. for the submission of an application for the proposed development of 80 dwelling units, including new access, car parking, landscaping, open space and all associated site works on lands at 70 Belfast Road, Lisburn.

### Background Detail

2. Section 27 of the Planning Act (Northern Ireland) 2011 requires that a prospective applicant, prior to submitting a major application must give notice to the appropriate council that an application for planning permission for the development is to be submitted.
3. It is stipulated that there must be at least 12 weeks between the applicant giving the notice (through the PAN) and submitting any such application.
4. The PAN for the above-described development was received on 06 January 2025. The earliest possible date for the submission of a planning application is week commencing 31 March 2025.

### Consideration of PAN Detail

5. Section 27 (4) stipulates that the PAN must contain:

**A description in general terms of the development to be carried out;**

6. The description associated with the FORM PAN1 is as described above.

7. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is considered that an adequate description of the proposed development has been provided.

**The postal address of the site, (if it has one).**

8. The postal address identified on the FORM PAN1 is as described above.
9. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that an adequate description of the location has been provided.

**A plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site.**

10. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10, it is accepted that a site location plan with the extent of the site outlined in red and submitted with the PAN form is sufficient to identify the extent of the site.

**Details of how the prospective applicant may be contacted and corresponded with.**

11. Having regard to the relevant section of the legislation and paragraph 2.4 of Development Management Practice Note 10 it is noted that the FORM PAN1 as amended and associated covering letter includes details of how the prospective applicant may be contacted and corresponded with.
12. The Form PAN1 includes the name and address of the agent. Any person wishing to make comments on the proposals or obtain further information can contact the agent TSA Planning Ltd, 20 May Street, Belfast.
13. In addition to the matters listed above, regulation 4 of the Planning (Development Management) Regulations (Northern Ireland) 2015 sets out that a PAN must also contain the following.

**A copy (where applicable) of any determination made under Regulation 7 (1)(a) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 in relation to the development to which the proposal of application notice relates.**

14. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 that the FORM PAN 1 indicates that no environmental impact assessment determination has been made.
15. It is accepted that this reference is made without prejudice to any future determination being made or the applicant volunteering an Environmental Statement.

**A copy of any notice served by the Department under Section 26(4) or (6) i.e. confirmation (or not) of the Department's jurisdiction on regionally significant developments**

16. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 it is considered that the form of development proposed is not specified in the Planning (Development Management) Regulations (Northern Ireland) 2015 as a major development (i.e. regionally significant) prescribed for the purpose of section 26 (1) of the Planning Act (Northern Ireland) 2011 and it is noted that consultation with the Department has not taken place.

**An account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take**

17. Having regard to the relevant section of the legislation and paragraph 2.5 of Development Management Practice Note 10 the account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take has been provided.

The PAN form indicates that a proposed public event will be held at which a number of large boards will be displayed setting out the proposal. The event will be held in Lisburn Racquets Club, 36 Belfast Road, Lisburn and members of the design team will be in attendance. The event will take place between 2:00pm and 7:00pm on 19 February 2025.

The event will be published in the Ulster Star from 5<sup>th</sup> February 2025.

A Notification letter will issue to all properties within 200 metres of the site boundary.

A dedicated and bespoke website [www.belfastroadlisburnconsultation.com](http://www.belfastroadlisburnconsultation.com) will be made available for interested parties and will go live on Wednesday 19<sup>th</sup> February 2025 and will run for three weeks until Wednesday 12<sup>th</sup> March 2025. This will be an online version of the traditional display boards for viewing with a connected and easy to use online comment card and direct email contact to the technical team.

A copy of the Notice also issued to Elected Members of the DEA and others as identified on the PAN form on 08 January 2025.

### Recommendation

18. In consideration of the detail submitted with the Pre-Application Notice (PAN) in respect of community consultation, it is recommended that the Committee agrees the information is submitted in accordance with the legislation and related guidance.





[www.lisburncastlereagh.gov.uk/resident/planning](http://www.lisburncastlereagh.gov.uk/resident/planning)

Lisburn & Castlereagh City Council, Civic Headquarters, Lagan Valley Island, Lisburn, BT27 4RL

Tel: 028 9244 7300

E-mail: [planning@lisburncastlereagh.gov.uk](mailto:planning@lisburncastlereagh.gov.uk)

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## Proposal of application notice

### Planning Act (Northern Ireland) 2011

#### Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Are you an agent acting on behalf of the applicant?

Yes

No

#### Applicant Details

Name/Company

Title

First name

Surname

Company Name

#### Address

Address line 1

Address line 2

Address line 3

Town/City

Country

198

## Contact Details

Telephone number

Mobile number

Email address

## Agent Details

### Name/Company

Company / Organisation

Title

First name

Surname

## Address

Address line 1

Address line 2

Address line 3

Town/City

Postcode

## Contact Details

199

Telephone number

Mobile number

Email address

Ref no.

## Site Address

**Disclaimer:** Recommendations can only be based on the answers given to the questions.

If you cannot provide a postcode, then further details must be provided below for 'Description of site location' by providing the most accurate site description you can in order to help locate the site.

Number

Suffix

Property Name

Address Line 1

Address Line 2

Town/city

Postcode

Description of site location (must be completed if postcode is not known)

Description

Easting co-ordinates (x)

365263

200

## Site Area

What is the area of the site?

2.74

Hectares

Please note - due to the size of site area this application may also be subject to the completion of an Environmental Impact Assessment report (EIA).

Please give a concise and accurate description of all elements of the proposed development that requires consent, including the purpose for which the land / buildings are to be used. Provide details of all buildings proposed and any ancillary works including access arrangements associated with the proposal. Please also include details of any demolition if the site falls within a designated area.

## Description of Proposed Development

Please give a brief description of the proposed development

Proposed development of c. 80 no. dwelling units, including new access, car parking, landscaping, open space and all associated site works.

Please indicate what type of application is being requested

- Outline permission  
 Full permission

## Floorspace Summary

Does the proposal include floorspace?

- Yes  
 No

## Renewable Energy

Does your proposal involve renewable energy development?

- Yes  No

## Determinations

Has a determination been made as to whether the proposed development would be of Regional Significance?

- Yes  
 No

Has an Environmental Impact Assessment determination previously been made?

- Yes  
 No

**Please add separate details for each proposed consultation**

Proposed public event: In-person drop-in event  
 Venue: Lisburn Racquets Club, 36 Belfast Road, Lisburn, BT27 4AS  
 Date and time: 19/02/2025 14:00

**Please add separate details for each publication used for the above consultation**

## Publication

Name of publication Ulster Star  
 Proposed advert date start 05/02/2025  
 Proposed advert date finish 05/02/2025

Proposed public event: Virtual consultation website  
 Venue: www.belfastroadlisburnconsultation.com  
 Date and time: 19/02/2025 12:00

**Please add separate details for each publication used for the above consultation**

## Publication

Name of publication Ulster Star  
 Proposed advert date start 05/02/2025  
 Proposed advert date finish 05/02/2025

Please specify details of any other consultation methods including distance from site for notifying neighbouring properties (e.g. 100m, 200m etc.) and method of notification (please include date, time and with whom)

- An in-person drop-in event will be held in Lisburn Racquets Club, 36 Belfast Road, Lisburn BT27 4AS on Wednesday 19th February 2025 from 2:00pm to 7:00pm to allow interested parties to view the display boards for the proposal and provide feedback via printed comment cards. The local elected representatives listed below will be invited to this event, as well as local residents and stakeholders. Members of the consultation team will attend the event to answer any questions that local residents and stakeholders may have, and to collect feedback on the proposal.
- A dedicated and bespoke website (www.belfastroadlisburnconsultation.com) will be made available for interested parties to view the consultation documentation and site proposals. The website will go live on Wednesday 19th February 2025 and will run for a period of 3 weeks, until Wednesday 12th March 2025. This will be an online version of the 'traditional' display boards for viewing, with a connected and easy to use feedback online comment card and direct email contact to the technical team.
- A period of identification of key stakeholders such as local community and political representatives and a subsequent engagement program throughout the Community Consultation phase. Electronic copies of the exhibition boards will be issued to the DEA Councillors, constituency MP & MLAs. Information provided will also include details of the drop-in event and a contact number if they require further information.

Details of any other publicity methods (e.g. leaflets, posters)

- A neighbourhood information drop will take place to residents within a c.200m radius from the edge of the subject site. Information will be provided via a tri-fold leaflet that includes a comment card. The leaflet will include information on the drop-in event, the virtual consultation website and details of the point of contact within the Technical Team to ask questions, or to provide feedback on the proposal.
- A public notice will be published in the local newspaper, the Ulster Star, with additional information including details of the drop-in event, the virtual consultation website & a contact number for any interested parties to speak to a member of the development team. Key stakeholders will also be asked to share details of the consultation event on their social media platforms.

**Details of Other Parties Receiving a copy of this PAN**

Yes  No

Please state which other parties have received a copy of this Proposal of Application Notice

Details for elected member(s) for District Electoral Area

**Elected member(s) for District Electoral Area:**  
 Lisburn North DEA Cllrs - Cllr Pat Catney (SDLP); Cllr Jonathan Craig (DUP); Cllr Gary Hynds (Independent); Cllr Declan Lynch (Sinn Féin); Cllr Nicola Parker (Alliance) and Cllr Nicholas Trimble (UUP)

**Date notice served:**  
 08/01/2025

Details for Other Parties

**Other(s):**  
 Lagan Valley MLAs - Robbie Butler MLA (UUP); Paul Givan MLA (DUP); Michelle Guy MLA (Alliance); David Honeyford MLA (Alliance) and Emma Little-Pengelly MLA (DUP).

**Date notice served:**  
 08/01/2025

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**Other(s):**  
 Lagan Valley MP - Sorcha Eastwood MP (Alliance).

**Date notice served:**  
 08/01/2025

---

**Other(s):**  
 LCCC - David Burns – Chief Executive of Lisburn & Castlereagh City Council.

**Date notice served:**  
 08/01/2025

**Authority Employee/Member**

Are you/the applicant/applicant's spouse or partner, a member of staff within the council or an elected member of the council?

Yes  
 No

Are you/the applicant/the applicant's spouse or partner, a relative of a member of staff in the council or an elected member of the council or their spouse or partner?

Yes  
 No

It is an important principle of decision-making that the process is open and transparent.

**Declaration**

The information I / We have given is correct and complete to the best of my knowledge and belief.

Signed

Lidia Ballocchi

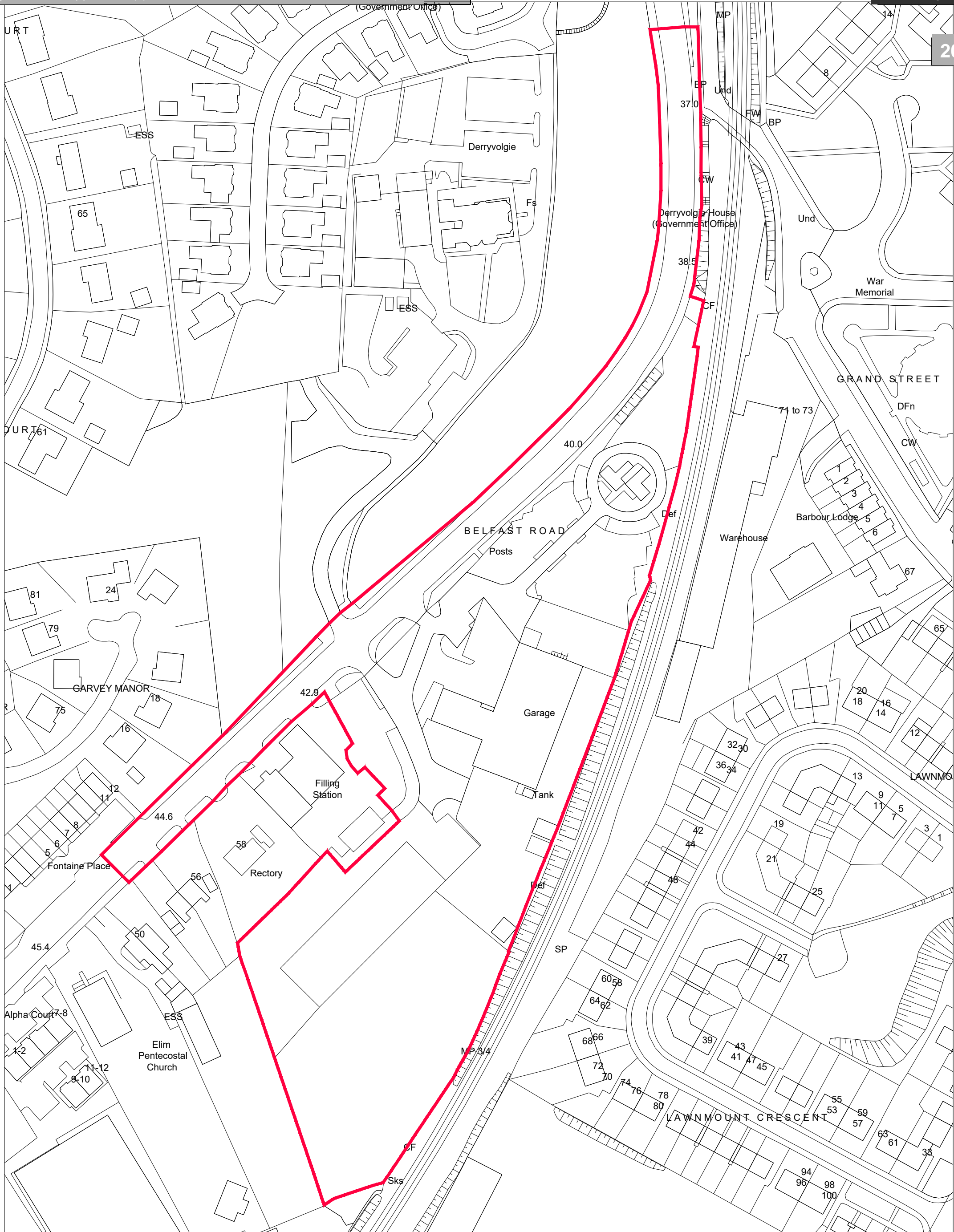
203

Date

06/01/2025

This information may be shared with other departments within the authority for the purposes of promoting investment. Please indicate by ticking the box below that you are providing your personal data on the basis of consent and are positively agreeing that it is shared with these departments and used for the purpose described, who may contact you and consider tailored support to meet your needs. Please note that availing of this service will have no influence on the planning process or the likelihood of you receiving planning permission.

**I consent for my personal data to be shared with other departments within the authority**



Rev	Description	Date

Client  
**LOTUS HOMES**

Project Name and Address  
**NEW RESIDENTIAL DEVELOPMENT ON FORMER GARAGE SITE, 70 BELFAST ROAD, LISBURN**

Scale <b>1:1250 / A3</b>	Drawn <b>AL</b>	Checked <b>MC</b>	Date <b>18.DEC'24</b>
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Drawing <b>LOCATION PLAN</b>		
Project Reference <b>24.1269</b>	Dwg No. <b>001</b>	Rev. <b>-</b>

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www.collinsrolston.com





<b>Committee:</b>	Planning Committee
<b>Date:</b>	03 February 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 7 – Statutory Performance Indicators – November & December 2024

1.0	<p><b><u>Background</u></b></p> <ol style="list-style-type: none"> <li>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 function.</li> <li>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.</li> </ol> <p><b><u>Key Issues</u></b></p> <ol style="list-style-type: none"> <li>1. The Department for Infrastructure has provided the Council with monthly monitoring information against the three statutory indicators. A sheet is attached (<b>see Appendix</b>) summarising the monthly position for each indicator for the month of November 2024.</li> <li>2. This data is unvalidated management information. The data has been provided for internal monitoring purposes only. They are not validated official statistics and should not be publicly quoted as such.</li> <li>3. Members will note that the performance against the statutory target for local applications for November 2024 was 49.4 weeks with performance year to date noted to be 36.5 weeks.</li> <li>4. Members will note that the performance against the statutory target for local applications for December 2024 was 44.9 weeks with performance year to date noted to be 36.8 weeks.</li> <li>5. There was a significant focus in these months on moving older applications out of the system to meet our key performance indicator for reducing the backlog of older applications. Good progress is made in this area. Our continued focus on reducing the number of older applications means it is unlikely that the Council will return to good performance aligned with the statutory target for local applications in the short term, but the implementation of a structural review and improvement plan should see an overall improvement against this target with a reduction in processing times of more than 15 weeks.</li> </ol>
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- 6. It is important to note that legal challenges and ongoing resourcing pressures continues to impact on our ability to improve performance in relation to local applications.
- 7. Performance in relation to major applications for November 2024 was 53.7 weeks. That said, performance year to date noted to be 61.2 weeks. The types of major applications that remain with the Unit are complex in nature and involve protracted consultation processes. These are being managed and it remains in the work programme a target to bring at least one major application forward to Committee each month.
- 8. Performance in relation to major applications for December 2024 was nil return. Performance year to date stayed at 61.2 weeks.
- 9. The challenge in achieving good performance consistently can depend on a number of unrelated factors all of which can mask good performance generally. One significant factor is the requirement for many of the applications in this category to be accompanied with legal agreements. Our practice for dealing with agreements is under review.

2.0 **Recommendation**  
 It is recommended that the Committee notes the information in relation to the November & December 2024 Statutory Performance Indicators.

3.0 **Finance and Resource Implications**  
 There are no finance or resource implications.

4.0 **Equality/Good Relations and Rural Needs Impact Assessments**

4.1	Has an equality and good relations screening been carried out?	No
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4.2	Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out  This is a report outlining progress against statutory targets and EQIA is not required.	
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4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
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4.4	Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.  This is a report outlining progress against statutory targets and RNIA is not required.	
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**Appendices:**

Appendix 7a – Statutory Performance Indicators – November 2024  
Appendix 7b – Statutory Performance Indicators – December 2024

**Statutory targets monthly update - November 2024 (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	1	1	49.4	0.0%	60	49	32.6	12.2%	20	19	46.6	63.2%
May	2	1	59.2	0.0%	62	60	34.3	23.3%	33	42	33.6	81.0%
June	1	1	22.4	100.0%	45	73	32.0	31.5%	13	26	39.3	69.2%
July	1	1	197.8	0.0%	37	62	32.4	32.3%	14	22	49.9	63.6%
August	2	1	135.4	0.0%	50	62	27.7	32.3%	22	4	37.1	75.0%
September	0	2	64.2	0.0%	46	74	44.2	14.9%	21	28	59.6	60.7%
October	3	1	210.6	0.0%	45	49	29.4	28.6%	22	21	42.9	66.7%
November	1	2	53.7	0.0%	64	77	49.4	18.2%	26	22	26.3	86.4%
December	-	-	-	-	-	-	-	-	-	-	-	-
January	-	-	-	-	-	-	-	-	-	-	-	-
February	-	-	-	-	-	-	-	-	-	-	-	-
March	-	-	-	-	-	-	-	-	-	-	-	-
<b>Year to date</b>	<b>11</b>	<b>10</b>	<b>61.2</b>	<b>10.0%</b>	<b>409</b>	<b>506</b>	<b>36.5</b>	<b>24.1%</b>	<b>171</b>	<b>184</b>	<b>36.9</b>	<b>71.2%</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.

**Statutory targets monthly update - December 2024 (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	1	1	49.4	0.0%	60	49	32.6	12.2%	20	19	46.6	63.2%
May	2	1	59.2	0.0%	62	60	34.3	23.3%	33	42	33.6	81.0%
June	1	1	22.4	100.0%	45	73	32.0	31.5%	13	27	39.0	70.4%
July	1	1	197.8	0.0%	37	62	32.4	32.3%	14	21	50.0	61.9%
August	2	1	135.4	0.0%	50	62	27.7	32.3%	22	5	38.9	80.0%
September	0	2	64.2	0.0%	46	74	44.2	14.9%	21	28	59.6	60.7%
October	3	1	210.6	0.0%	45	49	29.4	28.6%	22	21	42.9	66.7%
November	1	2	53.7	0.0%	67	77	49.4	18.2%	26	23	26.0	87.0%
December	2	0	-	-	39	50	44.9	18.0%	12	31	88.6	61.3%
January	-	-	-	-	-	-	-	-	-	-	-	-
February	-	-	-	-	-	-	-	-	-	-	-	-
March	-	-	-	-	-	-	-	-	-	-	-	-
<b>Year to date</b>	<b>13</b>	<b>10</b>	<b>61.2</b>	<b>10.0%</b>	<b>451</b>	<b>556</b>	<b>36.8</b>	<b>23.6%</b>	<b>183</b>	<b>217</b>	<b>39.0</b>	<b>70.0%</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.

<b>Committee:</b>	Planning Committee
<b>Date:</b>	03 February 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 8 – Access to justice in relation to the Aarhus convention (a call for evidence)

## 1.0 **Background**

1. The purpose of this Call for Evidence from the Department of Justice (DOJ) is to seek views from those with an interest in the provisions of the Aarhus Convention regarding legal challenges in relation to environmental matters. DOJ advise this may include, but is not limited to, the judiciary, the legal profession, developers and environmental groups.
2. DOJ explain that one of the Convention's core aims is to ensure access to justice in environmental matters. The Convention's monitoring body, the Aarhus Convention Compliance Committee, has found the UK to be non-compliant with the Convention and has made several recommendations, which have been adopted as decisions by the Meeting of the Parties, about matters on which the UK must take action to bring its policies into compliance with the Convention. The call for evidence seeks views on these recommendations and the issues arising to determine the best way to reach compliance.

### **Key Issues**

1. The UK is one of 47 parties to the Aarhus Convention, officially known as “the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters”, an international treaty adopted under the auspices of the United Nations Economic Commission for Europe in 1998. The UK ratified the Aarhus Convention in 2005. The Convention sets out obligations on Parties to make provision for the public to access environmental information, to participate in environmental decision-making, and to access justice when challenging environmental matters.
2. Decision VII/8s2, adopted by the MoP in October 2021, includes a number of recommendations on ways in which the UK can bring itself into compliance with the Convention with regard to the access to justice provision under Article 9 (see Annex C of the appended consultation document). Some of these recommendations relate to costs protection in environmental legal challenges and there is also a recommendation relating to the time limit for bringing a judicial review within the scope of the Convention.

	<p>3. The specific areas for consultation include:</p> <ul style="list-style-type: none"> <li>the allocation of costs in all court procedures subject to Article 9, including private nuisance claims, is fair and equitable, and not prohibitively expensive.</li> <li>consideration of the establishment of appropriate assistance mechanisms to remove or reduce financial barriers to access to justice.</li> <li>review its rules regarding the timeframe for the bringing of applications for judicial review in Northern Ireland to ensure that the legislative measures involved are fair and equitable, and amount to a clear and transparent framework.</li> <li>establishment of a clear, transparent and consistent framework to implement Article 9(4) of the Convention.</li> </ul>	
2.0	<p><b><u>Recommendation</u></b></p> <p>It is recommended that Members note the update provided by the Department of Justice, and also note that a report is going to the February Regeneration and Growth Committee with a draft response recommended.</p>	
10	<p><b><u>Finance and Resource Implications</u></b></p> <p>No finance or resource implications are identified.</p>	
11	<p><b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b></p>	
11.1	Has an equality and good relations screening been carried out?	No
11.2	<p>Brief summary of the key issues identified and proposed mitigating actions <b>or</b> rationale why the screening was not carried out</p> <p>This is a report regarding a Call for evidence questionnaire on the access to justice in relation to the Aarhus convention - EQIA not required.</p>	
11.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
11.4	<p>Brief summary of the key issues identified and proposed mitigating actions <b>or</b> rationale why the screening was not carried out.</p> <p>This is a report regarding a Call for evidence questionnaire on the access to justice in relation to the Aarhus convention - RNIA not required.</p>	

<b>Appendices:</b>	Appendix 8 – From the Department of Justice- Access to justice in relation to the Aarhus convention (a call for evidence) and questionnaire.
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Department of  
**Justice**

An Roinn Dlí agus Cirt  
Máinnystrie O tha Laa

# **Access to Justice in relation to the Aarhus Convention**

## **A Call for Evidence**

**This Call for Evidence begins on Friday 20 December 2024 and closes on  
Friday 28 February 2025**

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## 1. Purpose of this Call for Evidence

### Why are we issuing this Call for Evidence?

- 1.1 The purpose of this Call for Evidence is to seek views from those with an interest in the provisions of the Aarhus Convention regarding legal challenges in relation to environmental matters. This may include, but is not limited to, the judiciary, the legal profession, developers and environmental groups.
- 1.2 One of the Convention's core aims is to ensure access to justice in environmental matters. The Convention's monitoring body, the Aarhus Convention Compliance Committee, has found the UK to be non-compliant with the Convention and has made several recommendations, which have been adopted as decisions by the Meeting of the Parties, about matters on which the UK must take action to bring its policies into compliance with the Convention. This call for evidence seeks views on these recommendations and the issues arising to determine the best way to reach compliance.

### Responding to the Call for Evidence

- 1.3 The Call for Evidence will run for a period of ten weeks, from **Friday 20 December 2025 to 5pm on Friday 28 February 2025**. Please note that it is unlikely that responses will be accepted after this date.
- 1.4 The list of those notified of this Call for Evidence is contained at **Annex A**. The list is not meant to be exhaustive or exclusive, and responses are welcomed from anyone with an interest in, or views on, the matters covered by this Call for Evidence.
- 1.5 If you wish, you can respond to the Call for Evidence using the questionnaire which is provided separately on the Department's website (see <https://www.justice-ni.gov.uk/consultations/call-evidence-aarhus>). Responses to the Call for Evidence should be submitted by email to: [DoJCivilJusticeandJudicialPolicyDivision@justice-ni.gov.uk](mailto:DoJCivilJusticeandJudicialPolicyDivision@justice-ni.gov.uk)

- 1.6 An electronic copy of this document is available to view and download from the Department of Justice's website. However, hard copies of the document and copies in other formats, such as Braille, large print etc., may be made available on request. If it would help you to have to this document in a different format or in a language other than English, please let us know and we will do our best to assist you.
- 1.7 If you require any further information on this Call for Evidence, please contact us by email: [DoJCivilJusticeandJudicialPolicyDivision@justice-ni.gov.uk](mailto:DoJCivilJusticeandJudicialPolicyDivision@justice-ni.gov.uk)

### Privacy, confidentiality and access to Call for Evidence responses

- 1.8 All responses to this Call for Evidence may be published on the Department's website except for those where the respondent indicates that they are an individual acting in a private capacity, e.g. a member of the public. All responses from organisations and individuals responding in a professional capacity may be published. Where relevant, email addresses and telephone numbers will be removed from responses. However, apart from this, they will be published in full. For more information about how personal data is handled, please see the Department's consultation privacy notice at **Annex B**.
- 1.9 Your response, and all other responses to this Call for Evidence, may also be disclosed on request in accordance with the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("EIR"). However, all disclosures will be in line with the requirements of the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679.
- 1.10 If you want the information that you provide to be treated as confidential, you should explain in your response which particular section(s) of your response is confidential and why it should potentially be withheld (please refer to the Information Commissioner's Office's guidance on the application of the section 41 exemption (Information provided in confidence)).<sup>1</sup> This will form part of the

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<sup>1</sup> [information-provided-in-confidence-section-41.pdf](#)

consideration should the Department receive a request for the information under FOIA or EIR.

## Complaints

1.11 If you have any concerns about the way in which the Call for Evidence process has been handled, please email us at: [Governance.Unit@justice-ni.gov.uk](mailto:Governance.Unit@justice-ni.gov.uk).

## 2. Introduction

- 2.1 The UK is one of 47 Parties to the Aarhus Convention, officially known as “the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters”, an international treaty adopted under the auspices of the United Nations Economic Commission for Europe in 1998. The UK ratified the Aarhus Convention in 2005. The Convention sets out obligations on Parties to make provision for the public to access environmental information, to participate in environmental decision-making, and to access justice when challenging environmental matters.
- 2.2 The Aarhus Convention Compliance Committee (“the ACCC”) was set up by the Convention’s decision-making body, the Meeting of the Parties (“the MoP”), to monitor compliance with the Convention. The ACCC reviews alleged instances of a Party’s non-compliance, which are normally raised by members of the public or environmental NGOs and determines whether there has been non-compliance. In cases of non-compliance, the ACCC makes recommendations to the MoP about how the Party concerned can remedy the issue.
- 2.3 **Decision VII/8s**<sup>2</sup>, adopted by the MoP in October 2021, includes a number of recommendations on ways in which the UK can bring itself into compliance with the Convention with regard to the access to justice provision under Article 9 (see **Annex C** for the text of Article 9 of the Aarhus Convention in full). Some of these recommendations relate to costs protection in environmental legal challenges and there is also a recommendation relating to the time limit for bringing a judicial review within the scope of the Convention.
- 2.4 Specifically, Decision VII/8s endorsed and reaffirmed the earlier **Decision VI/8k**, noting progress towards compliance made since that decision but requested further steps to:

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<sup>2</sup> [ECE/MP.PP/2021/42 \(unece.org\)](https://www.unece.org/ece/mp/pp/2021/42)

- ensure that the allocation of costs in all court procedures subject to Article 9, including private nuisance claims, is fair and equitable, and not prohibitively expensive;
- further consider the establishment of appropriate assistance mechanisms to remove or reduce financial barriers to access to justice;
- further review its rules regarding the time-frame for the bringing of applications for judicial review in Northern Ireland to ensure that the legislative measures involved are fair and equitable, and amount to a clear and transparent framework; and
- establish a clear, transparent and consistent framework to implement Article 9(4) of the Convention.

2.5 The following parts of this Call for Evidence set out in turn the ACCC recommendations underpinning the MoP decision, alongside the background to each of these.

2.6 Respondents are asked to consider the ACCC's recommendations and having regard to the likely benefits and potential risks, to indicate whether each recommendation should be implemented or whether there are suitable alternatives which could deliver the desired outcome of bringing these areas into compliance.

2.7 This Call for Evidence focuses on the compliance issues for Northern Ireland. The UK Government and the Scottish Government are responsible for how the relevant compliance issues are addressed in England and Wales and Scotland. However, we are working closely with them to ensure the UK meets its international law obligations under the Aarhus Convention.

### 3. The Costs Protection (Aarhus Convention) Regulations (Northern Ireland) 2013

#### History of the Costs Protection Regulations

- 3.1 As a Party to the Aarhus Convention, the UK is required, amongst other things, to make sure that there is a clear, transparent and consistent framework for members of the public to access environmental justice, and that the costs of bringing environmental challenges are not 'prohibitively expensive'. When the UK ratified the Aarhus Convention, it was still a member of the European Union. Elements of the Aarhus Convention have been implemented via EU Directives, which means that some non-compliance issues were subject to the EU's legal and infraction procedures when the UK was a Member State.
- 3.2 In 2013, the Department of Justice ("the Department") made *The Costs Protection (Aarhus Convention) Regulations (Northern Ireland) 2013* ("the Costs Protection Regulations") for Northern Ireland. The Regulations, as introduced, fixed the maximum costs that a court can order an unsuccessful claimant to pay to other parties for judicial reviews and statutory reviews, which fall within the scope of the Aarhus Convention.<sup>3</sup> The costs caps were set, at the outset, at £5,000 (for individual claimants), £10,000 (where the applicant is a legal person or applying in the name of a legal entity or unincorporated association) and £35,000 (for respondents).
- 3.3 The European Court of Justice ("the CJEU") gave a judgment in 2014 in which it found that the costs regime for environmental judicial review cases which had been in place in the UK in 2010 (before the Costs Protection Regulations were in operation) had not properly implemented the 'not prohibitively expensive' requirement of the Aarhus Convention, as required by the Public Participation Directive (2003/35/EC).<sup>4</sup>

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<sup>3</sup> "An Aarhus Convention case" is defined at regulation 2 of the Costs Protection (Aarhus Convention) Regulations (Northern Ireland) 2013

<sup>4</sup> C-530/11 European Commission V. UK [2014] 3 WLR 853



3.4 In light of this judgment and other judgments of the CJEU<sup>5</sup> and the UK Supreme Court<sup>6</sup>, the Department consulted on proposed amendments to the Costs Protection Regulations in 2015 and subsequently made *The Costs Protection (Aarhus Convention) (Amendment) Regulations (Northern Ireland) 2017*<sup>7</sup>, which introduced several new provisions, including the following:

- giving the courts the power to vary the default costs cap downwards for an applicant to avoid prohibitive expense and to increase the cap for a respondent to, again, avoid prohibitive expense to the applicant;
- in deciding whether the cap is prohibitively expensive, the court must take into account the applicant's financial means;
- a separate costs cap to apply to an appeal within the scope of the Convention in the Court of Appeal;
- clarification that only applicants who are members of the public (and not public bodies) are entitled to costs protection; and
- a direction to the court to apply certain principles when considering whether or not to require an undertaking in an application for an interim injunction in a case within the scope of the Convention.

3.5 As it has been some time since the costs caps came into operation and the Costs Protection Regulations were subsequently amended, the Department believes now is the right time to review these in detail, including how they operate in practice.

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<sup>5</sup> C-260/11 *Edwards V. Environment Agency* [2013] 1 W.L.R. 2914

<sup>6</sup> R (Edwards) V. Environment Agency (No.2) [2014] 1 W.L.R. 55

<sup>7</sup> [The Costs Protection \(Aarhus Convention\) \(Amendment\) Regulations \(Northern Ireland\) 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

**Question 1: How effective are the Costs Protection Regulations in ensuring that Aarhus Convention cases are not prohibitively expensive to bring?**

**Question 2: Please provide data on the number of Aarhus claims in which you have been involved since February 2017 and their outcomes.**

**Question 3: Please provide data on the impact, if any, of the Covid-19 pandemic on the number of Aarhus claims in which you have been involved.**

## Costs Protection Regulations Compliance Issues

### Overview

- 3.6 This section sets out the compliance issues for Northern Ireland identified by the ACCC. In each instance we have summarised the ACCC's concerns and set out some issues for further consideration. The Department would be grateful for respondents' views on the issues raised and any supporting evidence.
- 3.7 Decision VII/8s, adopted at the MoP to the Aarhus Convention in October 2021, concerns several different UK Aarhus compliance issues.<sup>8</sup> This part of the Call for Evidence considers the compliance issues raised in that decision insofar as they relate to the Costs Protection Regulations or other costs provisions, and associated procedural issues.
- 3.8 Decision VII/8s followed on from Decision VI/8k, which was made on 14 September 2017, and following which the UK reported on progress towards compliance in annual reports submitted to the ACCC in 2018, 2019 and 2020.<sup>9</sup> The ACCC issued a final report in 2021 providing detailed consideration of the issues regarding costs protection and indicating where some concerns remain.

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<sup>8</sup> See Decision VII/8s: [Decisions adopted by the Meeting of the Parties, advance edited copy \(ECE/MP.PP/2021/2/Add.1\) | UNECE](#).

<sup>9</sup> The UK's first progress report (in October 2018) on the implementation of Decision VI/8k is available here: [frPartyVI8.k\\_01.10.2018\\_first\\_progress\\_report.pdf \(unece.org\)](#). The UK's second progress report (in September 2019) on the implementation of Decision VI/8k is available here: [frPartyVI.8k\\_30.09.2019\\_2nd\\_progress\\_report.pdf \(unece.org\)](#). The UK's third and final progress report (in September 2020) on the implementation of Decision VI/8k is available here: [frPartyVI8.k\\_30.09.2020\\_final\\_progress\\_report.pdf \(unece.org\)](#).

This report was submitted to the MoP in October 2021 and underpins the new Decision VII/8s.<sup>10</sup> Accordingly, for the purpose of this Call for Evidence and consideration of the Costs Protection Regulations, we refer to the specific issues addressed by the ACCC in Part I of the report on Decision VI/8k, as listed below (while some recommendations discussed were directed towards other UK jurisdictions, they have read across to Northern Ireland):

- (a) costs protection on appeal;
- (b) types of claims covered;
- (c) cross-undertakings for damages;
- (d) costs for procedures with multiple claimants; and
- (e) costs orders against or in favour of interveners.

**(a) *Costs protection on appeal***

**3.9 The issue:** The ACCC considers that the Costs Protection Regulations fail to ensure sufficient costs protection for claimants in environmental legal challenges where there is an appeal.

**3.10 ACCC comments:** Although the ACCC final compliance report on Decision VI/8k noted comments made by some environmental groups that the 2017 amendments to the Costs Protection Regulations in Northern Ireland have, to date, operated reasonably well in practice, they recommended that the costs to be ordered on appeal, including any possible costs caps, “must recognise that the requirement not to be prohibitively expensive applies to the procedure as a whole, encompassing all stages of the procedure” (see paragraph 115 in Part I of the report on Decision VI/8k).

**3.11 Commentary:** The Costs Protection Regulations, as amended, already provide for separate costs caps in appeals in Aarhus cases and for the appeal court to

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<sup>10</sup> See the ACCC’s final report to the Meeting of the Parties on Decision VI/8k (Part I): [ECE/MP.PP/2021/59 \(unece.org\)](https://www.unece.org/ece/mp/pp/2021/59); and Part 2: [ECE\\_MP.PP\\_2021\\_60\\_E.pdf \(unece.org\)](https://www.unece.org/ece/mp/pp/2021/60_e.pdf). Part I reviews the progress made by the UK in implementing paragraphs 2, 4 and 6 of Decision VI/8k; Part II review the UK’s progress in implementing paragraph 8 of Decision VI/8k.

have the same power as the original court to decrease this amount. They also provide that the appeal court retains its power to make an order as to the costs of the proceedings in the original court, subject to the prescribed costs caps and any order of that court varying these. Taken together, this may give the appeal court sufficient powers to ensure the proceedings, as a whole, are not prohibitively expensive. However, the Department notes the concern raised by the ACCC and welcomes any evidence in relation to this issue.

**Question 4: Can you provide examples of occasions when appeal costs have proved to be prohibitively expensive to continuing with an appeal in an Aarhus case?**

**Question 5: Do the Costs Protection Regulations require to be clarified to ensure Aarhus cases that go to appeal are not prohibitively expensive? What are the likely benefits and risks of doing so?**

**(b) *Types of claims covered***

**3.12 The issue:** In its final report on Decision VI/8k, the ACCC suggested that the scope of the Costs Protection Regulations should be extended to cover private nuisance claims.

**3.13 ACCC comments:** In particular, the ACCC in its final report on Decision VI/8k found that, by excluding private law claims such as private nuisance from the scope of costs protection, the requirements of paragraph 2 (a), (b) and (d) of Decision VI/8k have not been met yet. The MoP endorsed this recommendation (in Decision VII/8s) and requested that, as a matter of urgency, the necessary legislative, regulatory, administrative and practical measures should be taken to ensure that the allocation of costs in all court procedures subject to Article 9, including private nuisance claims, is fair and equitable, and not prohibitively expensive.

- 3.14 **Commentary:** The Department notes the ACCC position that a lack of costs protection for private nuisance claims is presenting a barrier to justice in environmental matters in practice and would welcome any evidence on this issue.
- 3.15 There have been two cases in the Court of Appeal in England and Wales in which costs protection orders for private nuisance claims were sought and refused since the UK acceded to the Aarhus Convention: *Austin v Miller Argent*<sup>11</sup> and *Morgan v Hinton Organics (Wessex) Ltd*<sup>12</sup>. In the Austin case the Court stated that such a claim for private nuisance could come within the scope of Article 9(3) provided the nature of the complaint has a close link with the environmental matters regulated by the Convention and the claim if successful would confer significant public environmental benefits. Both parties in each case then raised a communication with the ACCC. [in the form of ACCC/C/2013/85<sup>13</sup> and ACCC/C/2013/86<sup>14</sup>].
- 3.16 The Department is not aware of any judgments considering the application of the Aarhus Convention in private nuisance claims in this jurisdiction but would welcome any examples of a Northern Ireland court considering this issue.
- 3.17 As it currently stands, the Costs Protection Regulations only apply to applications brought by a member of the public for judicial review or for review under the provision of any statutory provision as defined by regulation 2 of the Costs Protection Regulations. There may be a concern that extending the Regulations to include private nuisance claims runs the risk of increasing legal challenges

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<sup>11</sup> Original private nuisance case *Austin v Miller Argent* [2011] EWCA Civ 928, the costs of those proceedings were later appealed in *Austin v Miller Argent* [2014] EWCA Civ 1012. In the Austin case, the applicant brought a claim in private nuisance alleging that she was affected by noise and dust pollution from the respondent's mining operations. The Court noted that that the obligation to impose a Protected Costs Order (PCO) under court rules was limited to Aarhus Convention claims that were judicial review cases, but that there was also a discretionary power to order a PCO under general case management powers. Whilst a PCO was refused on the facts of the case, the Court of Appeal considered whether the Aarhus Convention has any application to private nuisance claims.

<sup>12</sup> Original private nuisance case from Queen's Bench Division in E&W A2/2008/0038, and then later appealed in *Morgan v Hinton Organics (Wessex) Ltd* [2009] EWCA Civ 107

<sup>13</sup> [ACCC/C/2013/85 United Kingdom | UNECE](#)

<sup>14</sup> [ACCC/C/2013/86 United Kingdom | UNECE](#)

between private persons which have only a tenuous link to the environment or to wider public environmental benefit.

3.18 The Department also notes that parties can choose to resolve private nuisance claims outside of the courts in Northern Ireland. This can be achieved through other dispute resolution mechanisms, such as mediation, which helps parties avoid the time, cost and stress of adversarial court proceedings.

3.19 If the Costs Protection Regulations were to be extended to private nuisance claims, one option could be to make such protection available only at the court's discretion, where the court considers a particular dispute to be sufficiently closely connected to an environmental matter. Additionally, provision could be made for the court to consider any wider public interest raised by the case. This would be similar to the approach of the English Court of Appeal in the *Austin v Millar Argent* case.

**Question 6: Please provide any data or information you hold on the costs involved in pursuing a private nuisance claim with an environmental component.**

**Question 7: Please provide any experience you have in a case in which costs protection measures were sought for private nuisance claims.**

**Question 8: Please provide your views on the courts using judicial discretion to determine whether a private nuisance claim should benefit from the Costs Protection Regulations. What are the likely benefits and potential risks of doing so?**

**Question 9: What particular private nuisance claims should benefit from costs protection under the Aarhus Convention?**

**Question 10: Please provide your views on mediation or other forms of dispute resolution as a means to resolve private nuisance disputes.**

**(c) Cross-undertakings for damages**

3.20 **The issue:** In its final report on Decision VI/8k, the ACCC stated that, based on a lack of data before the Committee, it was not clear whether the courts in Northern Ireland still in practice require cross-undertakings for damages when an injunction is sought in an Aarhus claim. They considered that this uncertainty fails to meet the requirement in Article 3(1) for a clear, transparent and consistent framework to implement the Convention's provisions.

3.21 **ACCC comments:** Further to the above, the ACCC sought up-to-date data regarding '(a) the number of Aarhus claims in which an interim injunction was sought; (b) whether a cross-undertaking was required; and (c) if so, the amount required'.

3.22 **Commentary:** Cross-undertakings may typically be required to compensate the respondent to an application for an injunction for any loss or damage they might suffer if an interim injunction is granted but the application is later refused. There is no rule in Northern Ireland which stipulates that such an undertaking will be required, rather it is at the court's discretion. Under the Costs Protection Regulations (see regulation 5), the court is required, when making a cross undertaking, to consider the terms of the order overall, so as not to make the case prohibitively expensive for the applicant. As of 9 June 2023, Northern Ireland Courts and Tribunal Service record the number of Aarhus cases. Following a manual examination of a random sample of such cases, no record of an order for a cross-undertaking for damages was found.

3.23 The Department would welcome further evidence as part of this review.

**Question 11: Please provide any data on the number of Aarhus claims in which you have been involved where an interim injunction was sought and whether the issue of a cross-undertaking in damages arose, in particular:**

- (a) the number of Aarhus claims in which an interim injunction was sought**
- (b) whether a cross-undertaking was required; and**
- (c) if so, the amount required.**

**(d) *Costs for procedures with multiple claimants***

3.24 **The issue:** The ACCC sees no basis for a rule requiring separate costs caps for each claimant, in particular, where the claimants make the same legal arguments on the same factual basis. Although the ACCC recommendation refers specifically to England and Wales, the recommendation applies equally to Northern Ireland where a similar rule is in place.

3.25 **ACCC comments:** In its final compliance report on Decision VI/8k, the ACCC commented: ‘the ACCC does not agree that it is undesirable for claimants to be able to share the costs burden for challenges within the scope of the Convention’.

3.26 **Commentary:** The Civil Procedure Rules in England and Wales stipulate that the costs caps in the Environmental Costs Protection Regime apply only to individual claimants and/or defendants, and ‘may not be exceeded, irrespective of the number of receiving parties.’ (CPR 46.26(4)). The Costs Protection Regulations in Northern Ireland (in regulation 3) set costs caps for applicants and respondents respectively but do not make any specific provision in regard to costs in cases of multiple claimants raising the same issues on a similar factual basis and legal argument. It is acknowledged that additional claimants may lead to increased costs of proceedings. The viability of a separate ‘shared claimant’ default costs cap could be considered (including, for example, if a second claimant is only raising the same legal argument). As an example, caps could be set at one and a half times the default individual claimant cap (e.g., £7,500, if there are two claimants who are individuals and £15,000 for two claimants otherwise), but crucially still retain the potential for variability. This would allow claimants to share the costs burden, if they wished to do so, but also reflect the fact that multiple claimants can increase the administration and complexity of legal arguments. This could be considered a positive development without undermining the principles of the current Costs Protection Regulations. The Department would welcome views on this issue including any risks associated with a shared claimants costs cap.



**Question 12: Would you support a default shared claimant costs cap, and, if so, what form should that take and should any conditions apply (for example, only where a second claimant is raising the same legal arguments)?**

**Question 13: What are the likely potential benefits and risks of a default shared claimant costs cap?**

**(e) *Costs orders against or in favour of interveners***

3.27 **The issue:** The ACCC considers that members of the public who join proceedings as interveners *in support of* the claimant should also be entitled to benefit from the Convention's requirement that proceedings must not be prohibitively expensive. Although this ACCC recommendation refers specifically to England and Wales, it applies equally to Northern Ireland where similar rules are in place.

3.28 **ACCC comments:** The ACCC's position is that costs protection should be afforded to interveners during proceedings. The ACCC considers that 'members of the public who join proceedings as interveners in support of the claimant are also entitled to benefit from the Convention's requirement that proceedings must not be prohibitively expensive'. They find that the UK has not yet achieved compliance on this point.

3.29 **Commentary:** The Department is not aware of any Aarhus case in which costs were sought or imposed against an intervener. Further views on this issue are welcomed.

**Question 14: Please provide any data on the number of Aarhus claims in which you have been involved where it has been appropriate for interveners to intervene to support claimants and whether there has been uncertainty as to costs liability. Did this uncertainty dissuade an intervener from taking part in the claim?**

**Question 15: The ACCC's position is that costs protection should be afforded to interveners during proceedings. Should interveners in support of an Aarhus claim have any additional protection from costs beyond the current position? What are the likely benefits and risks of doing so?**

## 4. Judicial Review Time Limit

### Current position in Northern Ireland

- 4.1 Court rules in Northern Ireland currently provide that an application for leave to bring a judicial review must be brought within three months from the date when the grounds for the application first arose unless the court considers that there is good reason for extending that period.<sup>15</sup> Previously a leave application had to be brought “promptly” and in any event within three months but the promptitude requirement was removed in 2017 following a public consultation.
- 4.2 Regarding when “the grounds for the application first arose”, case law has established that this is generally the date on which the decision under challenge was taken.

### Compliance issue

- 4.3 Paragraph 2(c) of Decision VII/8s “requests the UK to, as a matter of urgency, take the necessary legislative, regulatory, administrative and practical measures to:

*(c) Further review its rules regarding the time frame for the bringing of applications for judicial review in Northern Ireland to ensure that the legislative measures involved are fair and equitable and amount to a clear and transparent framework”.*

- 4.4 Whilst welcoming the removal of a promptitude requirement, in its final report on Decision VI/8k the ACCC found that, by failing to establish clear time limits within which claims may be brought and to set a clear and consistent point at which time starts to run, i.e. the date on which a claimant knew, or ought to have known, of the act, or omission, at stake, Northern Ireland has still not complied with the requirement in Article 9, paragraph 4, that procedures subject to Article 9 are fair and equitable.

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<sup>15</sup> The Rules of the Court of Judicature (NI) 1980 Order 53 rule 4 [RsCJ formerly RSC](#)

## Commentary

4.5 Judicial review is a constitutionally important mechanism which allows an individual or organisation affected by a decision taken by a public body to challenge that decision in court. The time limits for bringing a claim are intended to strike a balance between the need for legal certainty and the right of access to justice. This was recently summarised by Mr Justice Scofield *In The Matter Of An Application By William Bannon For Leave To Apply For Judicial Review*<sup>16</sup> in which he stated:

*“The courts have frequently emphasised the importance of legal certainty in the context of judicial review time limits since [O’Reilly v Mackman [1983] 2 AC 237], including for example in this jurisdiction in Re Turkington’s Application [2014] NIQB 58 (at para [33], Treacy J referring to good administration requiring “decisiveness and finality” in the absence of compelling reasons); and Re Musgrave Retail’s Application [2012] 109 (at para [13], Maguire J referring to the “need for speed” in the initiation of judicial review decisions and it being “important that a point in time is arrived at which it can confidently be said that a public law decision is beyond question”). Where time is to be extended, it is well established that there should be a good reason for doing so; and an onus lies upon an applicant seeking such an extension to account for all relevant periods of delay.”*

4.6 As noted above, provision already exists in the rules to allow the court to use its discretion to extend the three-month time limit where there is good reason to do so. The question of when the claimant knew (or ought to have known) enough information to make an application for judicial review will be a relevant factor, which is material to the question of whether an extension of time should be granted.

4.7 Changing the position so that the time limit is calculated from the date the decision became known to the public and not from the date that the contested

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<sup>16</sup> Paragraph 17 [2024] NIKB 25

decision was taken, was not considered in the 2017 consultation which resulted in the removal of the promptitude requirement. Therefore, the Department would welcome views on the likely benefits and potential risks associated with the implementation of this recommendation as a means of ensuring that the judicial review regime in Northern Ireland meets the UK's obligations under the Aarhus Convention.

- 4.8 The Department understands that the aim of the ACCC's recommendation is to ensure that an individual or organisation seeking to make an Aarhus Convention claim can take full advantage of the time limit. Respondents are asked to indicate whether they consider that this change should be made in Northern Ireland in order to ensure compliance or whether there is an alternative that might be more effective in enabling us to meet our obligations under the Convention.
- 4.9 The Department has identified two possible options to implement the ACCC's recommendation. Both would involve changing the rules so that the time limit starts from when a decision is made public rather than when it was taken. The first option would be to define in legislation 'when a decision is made public' as the date when that decision was published. The second would be to leave it to the court to establish the test as to when a decision is considered to have been made public, or when a claimant knew or ought to have known about that decision. While the first would provide for greater certainty as to when an eligible judicial review claim may be made, the latter could provide judges greater flexibility to consider the specific circumstances of each case when determining whether a claim was made in time.
- 4.10 The Department would welcome views from the judiciary, legal practitioners and other stakeholders on how the ACCC's recommendation ought to be implemented, with particular regard to how it might impact the operation of the courts.

**Question 16: What are the likely benefits of changing when the time limit for bringing an Aarhus Convention claim starts to run as suggested by the ACCC?**

**Question 17: What are the potential risks of changing when the time limit for bringing an Aarhus Convention claim starts to run as suggested by the ACCC?**

**Question 18: If legislative provision was to be made so that the time limit starts when a decision is made public, should 'when a decision is made public' be defined as the date when that decision is published or should this be left open for the courts to determine?**

**Question 19: Are there other approaches which could better address the non-compliance finding regarding judicial review time limits in Northern Ireland?**

## 5. Next Steps

- 5.1 The Department intends to publish a response as soon as practicable following the closing date of this Call for Evidence. Any screening and impact assessments will be completed as part of the Department's response to this Call for Evidence and ongoing policy development in this area.

## 6. Summary of Questions

We welcome responses to the following questions, which refer to the specific issues raised in the sections above. You do not need to answer every question. Please give reasons for your responses, including examples and data from cases.

### Costs Protection Regulations

Question 1: How effective are the Costs Protection Regulations in ensuring that Aarhus Convention cases are not prohibitively expensive to bring?

Question 2: Please provide data on the number of Aarhus claims in which you have been involved since February 2017 and their outcomes.

Question 3: Please provide data on the impact, if any, of the Covid-19 pandemic on the number of Aarhus claims in which you have been involved.

#### (a) Costs protection on appeal

Question 4: Can you provide examples of occasions when appeal costs have proved to be prohibitively expensive to continuing with an appeal in an Aarhus case?

Question 5: Do the Costs Protection Regulations require to be clarified to ensure Aarhus cases that go to appeal are not prohibitively expensive? What are the likely benefits and risks of doing so?

#### (b) Types of claims covered

Question 6: Please provide any data or information you hold on the costs involved in pursuing a private nuisance claim with an environmental component.

Question 7: Please provide any experience you have in a case in which costs protection measures were sought for private nuisance claims.



Question 8: Please provide your views on the courts using judicial discretion to determine whether a private nuisance claim should benefit from the Costs Protection Regulations. What are the likely benefits and potential risks of doing so?

Question 9: What particular private nuisance claims should benefit from costs protection under the Aarhus Convention?

Question 10: Please provide your views on mediation or other forms of dispute resolution as a means to resolve private nuisance.

### **(c) Cross-undertakings for damages**

Question 11: Please provide any data on the number of Aarhus claims in which you have been involved where an interim injunction was sought and whether the issue of a cross-undertaking in damages arose, in particular:

- (a) the number of Aarhus claims in which an interim injunction was sought;
- (b) whether a cross-undertaking was required; and
- (c) if so, the amount required.

### **(d) Costs for procedures with multiple claimants**

Question 12: Would you support a default shared claimant costs cap, and, if so, what form should that take and should any conditions apply (for example, only where a second claimant is raising the same legal arguments)?

Question 13: What are the likely potential benefits and risks of a default shared claimant costs cap?

### **(e) Costs orders against or in favour of interveners**

Question 14: Please provide any data on the number of Aarhus claims in which you have been involved where it has been appropriate for interveners to intervene to support claimants and whether there has been uncertainty as to costs liability. Did this uncertainty dissuade an intervener from taking part in the claim?

Question 15: The ACCC's position is that costs protection should be afforded to interveners during proceedings. Should interveners in support of an Aarhus claim have any additional protection from costs beyond the current position? What are the likely benefits and risks of doing so?

### **Judicial Review Time Limit**

Question 16: What are the likely benefits of changing when the time limit for bringing an Aarhus Convention claim starts to run as suggested by the ACCC?

Question 17: What are the potential risks of changing when the time limit for bringing an Aarhus Convention claim starts to run as suggested by the ACCC?

Question 18: If legislative provision was to be made so that the time limit starts when a decision is made public, should 'when a decision is made public' be defined as the date when that decision is published or should this be left open for the courts to determine?

Question 19: Are there other approaches which could better address the non-compliance finding regarding judicial review time limits in Northern Ireland?

## List of Recipients

Antrim and Newtownabbey Borough Council

Ards and North Down Borough Council

Armagh, Banbridge & Craigavon Borough Council

Bar Library of NI

Belfast City Council

Belfast Solicitors' Association

Causeway Coast and Glens Borough Council

Committee on the Administration of Justice

Departmental Solicitors Office

Derry City and Strabane District Council

Environment and Planning Law Association of Northern Ireland

Fermanagh and Omagh District Council

Infrastructure NI

Lady Chief Justice Northern Ireland

Law Centre (NI)

Law Society of Northern Ireland

Lisburn and Castlereagh City Council

Mid and East Antrim Borough Council

Mid Ulster District Council

Newry, Mourne & Down District Council

NI political party leaders

Northern Ireland Environment Link

Northern Ireland Executive Ministers and NI Executive Secretariat

Northern Ireland Human Rights Commission

Northern Ireland Local Government Association

Office of First Minister and deputy First Minister

Office of the Attorney General for Northern Ireland

PILS Project

Planning Appeals Commission

Royal Institution of Chartered Surveyors Northern Ireland

Royal Society of Ulster Architects

Royal Town Planning Institute Northern Ireland

Rural Community Network

School of Law - The Queen's University of Belfast

Shadow Civil Justice Council

The Law School at the University of Ulster (Jordanstown)

The River Faughan Anglers Ltd

Tidy Northern Ireland

Tourism NI

Translink

Ulster Farmers' Union

Woodland Trust

World Wildlife Fund, Northern Ireland

## Privacy Notice – Consultations (DoJ)

Data Controller Name: Department of Justice

Address: Knockview Buildings, Stormont, BELFAST, BT4 3SG

Email: [AtoJ.Consultation@justice-ni.gov.uk](mailto:AtoJ.Consultation@justice-ni.gov.uk)

Data Protection Officer Name: DoJ Data Protection Officer

Telephone: (028) 9037 8617

Email: [DataProtectionOfficer@justice-ni.gov.uk](mailto:DataProtectionOfficer@justice-ni.gov.uk)

Being transparent and providing accessible information to individuals about how we may use personal data is a key element of the Data Protection Act and the EU General Data Protection Regulation (“GDPR”). The Department of Justice (“the Department”) is committed to building trust and confidence in our ability to process your personal information and protect your privacy.

### Purpose for processing

We will process personal data provided in response to consultations for informing the development of our policy, guidance or other regulatory work in the subject area of the request for views. We may publish a summary of the consultation responses and, in some cases, the responses themselves but these will not contain any personal data. We will not publish the names or contact details of respondents but will include the names of organisations responding.

### Lawful basis for processing

The lawful basis we are relying on to process your personal data is Article 6(1)(e) of GDPR, which allows us to process personal data when this is necessary for the performance of our public tasks in our capacity as a Government Department.

We will only process any special category personal data you provide, which reveals racial or ethnic origin, political opinions, religious belief, health, disability or sexual life/orientation when it is necessary for reasons of substantial public interest under Article 9(2)(g) of GDPR, in the exercise of the function of the Department and to monitor equality.

### How will your information be used and shared?

We process the information internally for the above stated purpose. For the time that we are processing this data, it will be held on a secure IT system and access to it will be controlled. We do not intend to share your personal data with any third party. Any specific requests from a third party for us to share your personal data with them will be dealt with in accordance with the provisions of the data protection laws.

### How long will we keep your information?

We will retain consultation response information until our work on the subject matter of the consultation is complete and in line with the Department's approved Retention and Disposal Schedule.

### What are your rights?

You have:

- the right to obtain confirmation that your data is being processed and access to your personal data;
- an entitlement to have personal data rectified if it is inaccurate or incomplete;
- a right to have personal data erased and to prevent processing in specific circumstances;
- the right to 'block' or suppress processing of personal data in specific circumstances;
- the right to data portability in specific circumstances; and
- rights in relation to automated decision making and profiling.

### How to complain if you are not happy with how we process your personal information

If you wish to request access, object or raise a complaint about how we have handled your data, you can contact our Data Protection Officer using the details above.

If you are not satisfied with our response or believe we are not processing your personal data in accordance with the law, you have the right to lodge a complaint with the Information Commissioner's Office:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Tel: 0303 123 1113  
Email: [casework@ico.org.uk](mailto:casework@ico.org.uk)  
<https://ico.org.uk/global/contact-us/>

## **Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters**

### **Article 9**

#### **Access to Justice**

1. Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under article 4 has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, has access to a review procedure before a court of law or another independent and impartial body established by law.

In the circumstances where a Party provides for such a review by a court of law, it shall ensure that such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law.

Final decisions under this paragraph 1 shall be binding on the public authority holding the information. Reasons shall be stated in writing, at least where access to information is refused under this paragraph.

2. Each Party shall, within the framework of its national legislation, ensure that members of the public concerned
  - (a) Having a sufficient interestor, alternatively,
  - (b) Maintaining impairment of a right, where the administrative procedural law of a Party requires this as a precondition,



have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.

What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention. To this end, the interest of any non-governmental organization meeting the requirements referred to in article 2, paragraph 5, shall be deemed sufficient for the purpose of subparagraph (a) above. Such organizations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) above.

The provisions of this paragraph 2 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

3. In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.
4. In addition and without prejudice to paragraph 1 above, the procedures referred to in paragraphs 1, 2 and 3 above shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive. Decisions under this article shall be given or recorded in writing. Decisions of courts, and whenever possible of other bodies, shall be publicly accessible.

5. In order to further the effectiveness of the provisions of this article, each Party shall ensure that information is provided to the public on access to administrative and judicial review procedures and shall consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice.



Department of  
**Justice**

An Roinn Dlí agus Cirt  
Máinnystrie O tha Laa

## Access to Justice in relation to the Aarhus Convention

### A Call for Evidence

**The Call for Evidence seeks views from those with an interest in the provisions of the Aarhus Convention regarding legal challenges in relation to environmental matters.**

#### Responding to the Call for Evidence

**Please use this questionnaire to tell us your views.**

The closing date for receipt of responses is **5pm on Friday 28 February 2025**.

Please note that it is unlikely that responses to the Call for Evidence will be accepted after this date.

Please send your response by email to:

[DoJCivilJusticeandJudicialPolicyDivision@justice-ni.gov.uk](mailto:DoJCivilJusticeandJudicialPolicyDivision@justice-ni.gov.uk)

## Privacy Notice

All responses to this Call for Evidence may be published on the Department's website except for those where the respondent indicates that they are an individual acting in a private capacity, e.g. a member of the public. All responses from organisations and individuals responding in a professional capacity may be published. Where relevant, email addresses and telephone numbers will be removed from responses. However, apart from this, they will be published in full. For more information about how personal data is handled, please see the Department's consultation privacy notice at Annex B of the Call for Evidence paper.

Your response, and all other responses to this Call for Evidence, may also be disclosed on request in accordance with the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("EIR"). However, all disclosures will be in line with the requirements of the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679.

If you want the information that you provide to be treated as confidential, you should explain in your response which particular section(s) of your response is confidential and why it should potentially be withheld (please refer to the Information Commissioner's Office's guidance on the application of the section 41 exemption (Information provided in confidence)). This will form part of the consideration should the Department receive a request for the information under FOIA or EIR.

<b>Consultee Details</b>	
<b>Please enter your details below:</b>	
<b>Full Name:</b>	
<b>Title:</b>	<input type="checkbox"/> <b>Mr</b> <input type="checkbox"/> <b>Ms</b> <input type="checkbox"/> <b>Mrs</b> <input type="checkbox"/> <b>Miss</b> <input type="checkbox"/> <b>Dr</b> <i>(please tick as appropriate)</i>
<b>Organisation:</b>	
<b>Job Title:</b> <i>(if applicable)</i>	
<b>Address, including Postcode:</b>	
<b>Email Address:</b>	

**Question 1:**

**How effective are the Costs Protection Regulations in ensuring that Aarhus Convention cases are not prohibitively expensive to bring?**

**Question 2:**

**Please provide data on the number of Aarhus claims in which you have been involved since February 2017 and their outcomes.**

**Question 3:**

**Please provide data on the impact, if any, of the Covid-19 pandemic on the number of Aarhus claims in which you have been involved.**



**Question 4:**

**Can you provide examples of occasions when appeal costs have proved to be prohibitively expensive to continuing with an appeal in an Aarhus case?**

**Question 5:**

**Do the Costs Protection Regulations require to be clarified to ensure Aarhus cases that go to appeal are not prohibitively expensive? What are the likely benefits and risks of doing so?**

**Question 6:**

**Please provide any data or information you hold on the costs involved in pursuing a private nuisance claim with an environmental component.**

**Question 7:**

**Please provide any experience you have in a case in which costs protection measures were sought for private nuisance claims.**

**Question 8:**

**Please provide your views on the courts using judicial discretion to determine whether a private nuisance claim should benefit from the Costs Protection Regulations. What are the likely benefits and potential risks of doing so?**

**Question 9:**

**What particular private nuisance claims should benefit from costs protection under the Aarhus Convention?**

**Question 10:**

**Please provide your views on mediation or other forms of dispute resolution as a means to resolve private nuisance disputes.**

**Question 11:**

Please provide any data on the number of Aarhus claims in which you have been involved where an interim injunction was sought and whether the issue of a cross-undertaking in damages arose, in particular:

- a) the number of Aarhus claims in which an interim injunction was sought;
- (b) whether a cross-undertaking was required; and
- (c) if so, the amount required.



**Question 12:**

**Would you support a default shared claimant costs cap, and, if so, what form should that take and should any conditions apply (for example, only where a second claimant is raising the same legal arguments)?**

**Question 13:**

**What are the likely potential benefits and risks of a default shared claimant costs cap?**

**Question 14:**

**Please provide any data on the number of Aarhus claims in which you have been involved where it has been appropriate for interveners to intervene to support claimants and whether there has been uncertainty as to costs liability. Did this uncertainty dissuade an intervener from taking part in the claim?**

**Question 15:**

The ACCC's position is that costs protection should be afforded to interveners during proceedings. Should interveners in support of an Aarhus claim have any additional protection from costs beyond the current position? What are the likely benefits and risks of doing so?

**Question 16:**

**What are the likely benefits of changing when the time limit for bringing an Aarhus Convention claim starts to run as suggested by the ACCC?**

**Question 17:**

**What are the potential risks of changing when the time limit for bringing an Aarhus Convention claim starts to run as suggested by the ACCC?**

**Question 18:**

**If legislative provision was to be made so that the time limit starts when a decision is made public, should 'when a decision is made public' be defined as the date when that decision is published or should this be left open for the courts to determine?**

**Question 19:**

**Are there other approaches which could better address the non-compliance finding regarding judicial review time limits in Northern Ireland?**



<b>Committee:</b>	Planning Committee
<b>Date:</b>	03 February 2025
<b>Report from:</b>	Head of Planning and Capital Development

<b>Item for:</b>	Noting
<b>Subject:</b>	Item 9 – Notification by telecommunication operator(s) of intention to utilise permitted development rights

1.0	<p><b><u>Background</u></b></p> <ol style="list-style-type: none"> <li>The Council is notified by one operator, Openreach of their intention to utilise permitted development rights at two locations within the Council area to install communications apparatus.</li> <li>The works consist of the installation of broadband and telecommunication apparatus, upgrades to existing radio base stations and alteration or replacement of a mast or antenna in accordance with Part 18 (Development by Electronic Communications Code Operators) F31 of the Planning (General Permitted Development) Order (Northern Ireland) 2015.</li> </ol> <p><b><u>Key Issues</u></b></p> <ol style="list-style-type: none"> <li>The notification advises the Council of the location of where they intend to utilise permitted development rights. Detail is also provided in relation to the nature and scale of the works proposed.</li> <li>Only the schedule of locations where the works are proposed has been appended to the report (<b>see Appendix</b>). However, the content of notifications detailed above are provided separately on decision time to assist Members in understanding the scope and nature of the proposed works.</li> <li>No comment is provided on the requirement for planning permission for the equipment listed. This letter is also referred to the enforcement section of the Unit. They will write separately to the operator should it be considered that the requirements of the Regulations cannot be met at any of the locations specified by either operator.</li> </ol>
2.0	<p><b><u>Recommendation</u></b></p> <p>It is recommended that Members note the detail of the notifications specific to the sites identified.</p>
3.0	<p><b><u>Finance and Resource Implications</u></b></p> <p>There are no finance or resource implications.</p>

4.0	<b><u>Equality/Good Relations and Rural Needs Impact Assessments</u></b>	
4.1	Has an equality and good relations screening been carried out?	No
4.2	Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out  This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. EQIA not required.	
4.3	Has a Rural Needs Impact Assessment (RNIA) been completed?	No
4.4	Brief summary of the key issues identified and proposed mitigating actions <b><u>or</u></b> rationale why the screening was not carried out.  This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. RNIA not required.	

<b>Appendices:</b>	Appendix 9 – Notifications from an Operator in respect of intention to utilise permitted development rights
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**List of Notifications from Telecommunication Operators in relation to intentions to utilise Permitted Development Rights  
February 2025 Planning Committee**

	<b>Applicant/Agents</b>	<b>Operator</b>	<b>Location</b>	<b>Summary of details</b>	<b>Date received</b>
1.	Openreach	BT	249c Ballynahinch Road, Dromore	Regulation 5 Notice of Intention to Install Fixed Line Broadband Apparatus.	16/12/2024
2.	Openreach	BT	1 Purdysburn Road, Belfast	Regulation 5 Notice of Intention to Install Fixed Line Broadband Apparatus.	09/01/2025
3.	Openreach	BT	110C Glenavy Road, Lisburn	Regulation 5 Notice of Intention to Install Fixed Line Broadband Apparatus.	15/01/2025
4.					