



March 28th, 2023

Chairman : Alderman J Tinsley

Vice Chairman : Councillor John Palmer

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

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

Notice of Meeting

A meeting of the Planning Committee will be held on **Monday, 3rd April 2023** at **11:00 am**, in the **Council Chamber and Remote Locations** for the transaction of business on the undernoted Agenda.

David Burns
Chief Executive

Agenda

1.0 Apologies

2.0 Declaration of Interests

(i) Conflict of Interest on any matter before the meeting (Members to confirm the specific item)

(ii) Pecuniary and non-pecuniary interest (Member to complete the Disclosure of Interest form)

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

📄 *PC 06.03.2023 - Draft Minutes for adoption.pdf*

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4.0 Report from the Head of Planning and Capital Development

4.1 Schedule of Applications to be Determined:

📄 *Item 1 - Schedule of Applications.pdf*

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- (i) LA05/2022/0195/F - Proposed change of use from agricultural outbuildings to remote document storage facility including new access to Lisnabreeny Road East at lands 20m south of 20 Lisnabreeny road, Belfast

📄 *Appendix 1.1 - DM Officer Report - LA0520210195F - Document Storage Faci...pdf*

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- (ii) LA05/2022/0958/O - Proposed infill dwelling and garage at site adjacent to 7 Yewtree Hill Road, Maghaberry

📄 *Appendix 1.2 - DM Officer Report - LA05 2022 0958 - 7 Yewtree Hill Road ...pdf*

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4.2 Statutory Performance Indicators - February 2023

📄 *Item 2 - Statutory Performance Indicators - February 2023.pdf*

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📄 *Appendix 2 - Lisburn_Castlereagh_Feb_Monthly_MI.PDF*

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4.3 Appeal Decision - LA05/2019/0118/F

📄 *Item 3 - Appeal Decision - LA0520190118F.pdf*

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📄 *Appendix 3 - Appeal Decision - LA05 2019 0118F.PDF*

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4.4 Misrepresentation of Information in Support of Planning Applications for Anaerobic Digesters and Agricultural Livestock Houses

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	<i>Appendix 4 - Letter to Heads of Planning re Misrepresentation of Informa....pdf</i>	<i>Page 88</i>
4.5	Planning Fraud Risk - NIAO	
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	<i>Appendix 5 - NIAO - Planning Fraud Risk Guide March 2023.pdf</i>	<i>Page 93</i>
4.6	Notification by Telecommunication Operator(s) of Intention to Utilise Permitted Development Rights	
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	<i>Appendix 6 - List of Notifications from Telecommunication Operators in r....pdf</i>	<i>Page 122</i>
4.7	Dfl Letter to Councils - Planning Fees	
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5.0 Any Other Business

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LISBURN & CASTLEREAGH CITY COUNCIL

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

Councillor John Palmer (Acting Chairman)

Aldermen W J Dillon MBE and O Gawith

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

PRESENT REMOTELY:

Alderman A Grehan

IN ATTENDANCE:

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

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

Commencement of Meeting

In the absence of the Chairman, Alderman J Tinsley, the Vice-Chairman, Councillor John Palmer, took the chair and conducted the business on the agenda.

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

1. **Apologies** (00:03:01)

It was agreed to accept apologies for non-attendance at the meeting on behalf of the Chairman, Alderman J Tinsley, and Alderman D Drysdale. It was noted that, due to another engagement, Councillor U Mackin would be arriving late to the meeting.

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

2. **Declarations of Interest** (00:04:36)

There were no declarations of interest.

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3. Minutes of Meeting of Planning Committee held on 6 February, 2023 (00:05:00)

It proposed by Alderman O Gawith, seconded by Councillor M Gregg and agreed that the minutes of the meeting of Committee held on 6 February, 2023 be confirmed and signed.

4. Report from the Head of Planning & Capital Development (00:05:39)4.1 Schedule of Applications (00:05:50)

The Acting Chairman, Councillor John Palmer, advised that there was one major application and 5 local applications on the schedule for consideration at the meeting.

4.1.1 Applications to be Determined (00:06:56)

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) LA05/2022/0432/F – Part retrospective application at Let's Go Hydro Resort comprising change of use of land to provide ancillary extension of existing and approved recreational water park facility, glamping accommodation, staff accommodation, car parking, reconfiguration and extension of clubhouse restaurant building, reception building, members club building with café (cable hub), house boats, sand sports arena, camping and caravan hook-up areas, paths, solar panels, change of use of existing river house and river cottage buildings to ancillary self-catering holiday accommodation, storage and other ancillary buildings/structures, landscaping and all associated works at land at Mealough Road and at 1 Mealough Road, Carryduff (Let's Go Hydro)
- &
- (ii) LA05/2021/1352/F – Provision of new site access including right hand turn lane and all other associated work at land at Mealough Road and at 1 Mealough Road, Carryduff (Let's Go Hydro) (00:08:17)

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

It was noted that Councillor N Anderson was registered to speak in support of these applications. However, he was unable to be in attendance but asked that his written submission be taken into consideration.

The Committee received Mr B Starkey (accompanied in the Council Chamber by Mr P Elliott and Mr R Agus; Mr R Sheehy was also available via zoom) in order to speak in support of the applications. A number of Members' queries were addressed.

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

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- (i) LA05/2022/0432/F – Part retrospective application at Let’s Go Hydro Resort comprising change of use of land to provide ancillary extension of existing and approved recreational water park facility, glamping accommodation, staff accommodation, car parking, reconfiguration and extension of clubhouse restaurant building, reception building, members club building with café (cable hub), house boats, sand sports arena, camping and caravan hook-up areas, paths, solar panels, change of use of existing river house and river cottage buildings to ancillary self-catering holiday accommodation, storage and other ancillary buildings/structures, landscaping and all associated works at land at Mealough Road and at 1 Mealough Road, Carryduff (Let’s Go Hydro)
- &
- (ii) LA05/2021/1352/F – Provision of new site access including right hand turn lane and all other associated work at land at Mealough Road and at 1 Mealough Road, Carryduff (Let’s Go Hydro) (Contd)

Vote

Whilst the applications were dealt with in a single presentation, two separate votes were required.

In respect of application (i), having considered the information provided within the report of the Planning Officer, the Committee agreed unanimously to adopt the recommendation to approve planning application LA05/2022/0432/F, subject to the inclusion of a suitably-worded planning condition to deal with the concerns of NI Water.

In respect of application (ii), having considered the information provided within the report of the Planning Officer, the Committee agreed unanimously to adopt the recommendation to approve planning application LA05/2021/1352/F.

Whilst in support of the above applications being approved, Members pointed out that the Planning Committee did not condone development being carried out without the necessary permission being in place first. That said, clarification was provided that they had, in making their decision, taken account of the explanations provided that the development would be of economic benefit to the Lisburn & Castlereagh City Council area, bringing employment and enjoyment to its residents and further afield.

The Head of Planning & Capital Development took note of comments regarding numbering errors within the list of conditions and agreed that these would be rectified before the decision was issued.

Adjournment of Meeting

The Acting Chairman, Councillor John Palmer, declared the meeting adjourned for a comfort break at this point (10.51 am).

Resumption of Meeting

The Acting Chairman, Councillor John Palmer, declared the meeting resumed (10.58 am).

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- (iii) LA05/2021/1364/O – Dwelling and garage 150m due west of 38 Backnamullagh Road, Dromore (00:50:08)

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

No-one was registered to speak in respect of this application.

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

Vote

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

- (iv) LA05/2022/0704/F – Temporary Permission for mobile home to facilitate farming operations approx. 37m southwest of 245 Moira Road, Lisburn (01:03:50)

The Director of Service Transformation left the meeting during consideration of this item of business (11.54 am).

Councillor U Mackin arrived to the meeting during consideration of this item of business (11.59 am).

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

The Committee received Mr D McMeekin (via zoom), accompanied by Mr M Foote (in the Council Chamber), in order to speak in support of the application and they addressed a number of Members' queries.

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

A technical issue arose during questions to Planning Officers and the audio recording failed (01:47:43). In light of this, the minutes from this point will be a detailed record of proceedings.

- Councillor D J Craig stated that there appeared to be an issue in that some of the information provided today was different to what had been provided to Planning Officers. He asked if it was in order to defer the application for one month so further information could be provided around the specific needs for the temporary dwelling and the intention to building a permanent dwelling.
- The Head of Planning & Capital Development stated that the applicant and his agent explained that hardship would be caused and this was new information to be taken account of in their consideration of the special domestic circumstances. Whilst those had to be considered, it was his

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

opinion that there was limited information before the Committee and he further explained that the Members had the right to defer an application for one month if it was deemed that new or additional information may be required to assist in the decision-making process.

- In response to a query by Alderman O Gawith in relation to who had completed the documentation made in support of the application, the Head of Planning and Capital Development explained that a supporting statement had been submitted with the application. He read from the document, the reasons why the agent considered the proposal to be in accordance with the policy. He made specific reference to the words ‘inconvenient’ and ‘occasional’, being included as part of the justification and that this did not suggest hardship would be caused if planning permission was not granted.
- In response to a query by Councillor M Gregg, the Acting Chairman, Councillor John Palmer, allowed the applicant to confirm that he had a mortgage on the dwelling he currently resided in.
- Councillor A Swan asked if in a month’s time an application was presented for a permanent building on the same site, would that affect the validity of the application for a temporary building. He stated that any decision should be based on planning principles rather than emotion.
- The Head of Planning & Capital Development stated that he had provided the Committee with the policy context within which a decision should be made, as well as the process for deferring an application, and had also highlighted the length of time it may take for an application for a permanent building to be progressed, which was in excess of one month.

It was proposed by Alderman W J Dillon that this application be deferred for one month to allow additional information to be submitted in respect of the points put forward regarding hardship. This proposal was seconded by Councillor D J Craig. He stated that he had heard information today regarding economic hardship around the submission of a full planning application at this point in time. There was a need for additional information to be supplied as that would have significant bearing on the decision-making process.

Councillor M Gregg asked that a vote on the above proposal not take place until after debate. The Acting Chairman, Councillor John Palmer, agreed to Councillor Gregg’s request.

Debate

During debate, the following comments were made:

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(iv) LA05/2022/0704/F – Temporary Permission for mobile home to facilitate farming operations approx. 37m southwest of 245 Moira Road, Lisburn (Contd)

- Councillor M Gregg stated his opinion that there had been sufficient evidence provided at today's meeting in respect of hardship and the fact that living beside the business would reduce traffic flow, to allow the Committee to approve the application at this point. Councillor A Swan concurred with Councillor Gregg.
- Alderman O Gawith thanked the applicant for having expanded on his circumstances for the Committee and for Officers. He stated that he would have no argument against deferring the application for one month if that provided an opportunity for Officers to review additional information in the form they needed. If that was not the case, he considered the application could be approved today on the basis of information provided.

Following debate, Alderman Dillon withdrew his proposal.

Vote

Having considered the information provided within the report of the Planning Officer, together with the information provided by the applicant and agent at the meeting, the Committee agreed to not adopt the recommendation to refuse the application, the voting being none in favour, 6 against and 1 abstention.

Given that the Officer recommendation to refuse planning permission had fallen, it was proposed by Councillor M Gregg, seconded by Councillor D J Craig and agreed that, in approving the planning application, the following reasons be offered:

- The evidence provided at the meeting today had engaged policies CTY6 and CTY9. There were compelling site specific reasons for the application to be approved at this location.
- Hardship had been demonstrated with the applicant having advised of the effort needed to maintain the site and the animals in his care. He was the sole employee and had to attend out of hours and at short notice to alarms. There was also personal hardship with regard to him having to address child care needs, school runs and travelling back and forward from his home to his business.
- Approving the application for a temporary dwelling would afford the applicant the short-term solution that was required under CTY9.
- It was a suitable site and location and was clustered with other buildings on the farm, therefore meeting all other policy tests.

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(iv) LA05/2022/0704/F – Temporary Permission for mobile home to facilitate farming operations approx. 37m southwest of 245 Moira Road, Lisburn (Contd)

- One of the reasons given for refusal was that planning permission would 'result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety'. As this was an exception to policy for the reasons outlined before, then the policy requirement for access on to the protected route also was dealt with. By approving the application, and thereby meaning the applicant living beside his business, this would result in less vehicular movement at the junction with the public road.

On a vote being taken, it was agreed to approve the granting of planning permission to this application, the voting being none in favour, 6 against and 1 abstention.

Adjournment of Meeting

The Acting Chairman, Councillor John Palmer, declared the meeting adjourned for lunch (12.36 pm).

Resumption of Meeting

The Acting Chairman, Councillor John Palmer, declared the meeting resumed (1.22 pm).

Alderman A Grehan and Councillor M Gregg did not return to the meeting after lunch.

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

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

The Committee received Mr D Kearney (via zoom), accompanied by Mr E Higgins (in the Council Chamber), in order to speak in support of the application. There were no questions raised by Members at this point.

Questions to Planners

- Councillor D J Craig stated that, from the outline site plan, the site did appear to be extremely tight. It had been indicated in the report that the proposed development was not in keeping with general development in the area and he asked that Officers elaborate on how far from the norm in the area this application was.
- The Head of Planning & Capital Development stated that the proposed site was a space between two buildings. In terms of layout of the area, it was mainly comprised of semi-detached bungalows which were within a large

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

curtilage and which had their principal frontage to the road. He also referred to the fact that the dimensions of the proposed dwelling did not meet the space standards outlined in Annex A of Policy LC1 (c) of PPS 7. The Principal Planning Officer drew attention to parking being a consideration in relation to character with advice provided that, throughout the development, parking was typically at the side of dwellings. The parking associated with the proposed dwelling was to the front of the site.

- In response to a query about comparisons with photographs provided by Mr Kearney as part of his submission, the Head of Planning & Capital Development stated that most were of extensions to buildings within the curtilage of the dwelling.
- Councillor D J Craig sought details of the space standards alluded to earlier. He referred to a dwelling in Kensington Park, Lisburn, which was very similar to this application. The Head of Planning & Capital Development advised that the dimensions of the proposed dwelling were 51m²; however, within policy, the minimum space standard for a 3 person, 2 bedroom bungalow was 60/65m². He was aware of the property in Kensington Park, which had been refused planning permission by the Planning Committee, but this had been overturned on appeal.
- Alderman O Gawith referred to a difference in measurements given by the Planning Officer and those provided by Mr Kearney in respect of private amenity space. The Head of Planning & Capital Development stated that the Planning Officer would have measured the area when preparing the report. The more significant point was the question of character. The Creating Places document set out what should be achieved in suburban areas. He quoted from the document “.... back garden provision should therefore be calculated as an average space for the development as a whole and should be around 70m² per house or greater. Garden sizes larger than the average will generally suit dwellings designed for use by families....” The Head of Planning & Capital Development accepted that there was a thin wedge of landscape right opposite the dwelling but this was of no great value and did not justify a reduced standard or private amenity. It should be 40-70m². To achieve parking, would require the building to be located further back on the site and this would compromise on amenity space at the back of the building.
- In response to a query by the Acting Chairman, Councillor John Palmer, in relation to whether a previous application on the same site had the same footprint, the Head of Planning & Capital Development confirmed that the previous application was for the same site and same location, but had been considered within a different policy context. Planning permission had been granted for the previous application in 2008; development had not been commenced and permission had since lapsed in 2013. In August 2010, an addendum to PPS7 (Policy LC1) had been published that had introduced

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

minimum space standards. Previous planning history had little weight in assessing this current application given that new planning policy now had to be taken account of.

- Councillor U Mackin referred again to the similar property at Kensington Park and asked if the decision of the Planning Appeals Commission in that case had any bearing on this application.
- The Head of Planning & Capital Development stated it was a different site and a different context. The Kensington Park property was on a corner site, was more open and the building was more consistent with the size of other buildings around it.
- The Acting Chairman, Councillor John Palmer, having referred to the objection to the application by DfI Road Service, the Head of Planning & Capital Development stated that this had been addressed in the Planning Officer's report. The advice of Planning Officers had not changed in relation to that despite additional information contained within the supporting statement of Mr Kearney.

Debate

During debate, the following comments were made:

- Alderman W J Dillon stated that, having listened to the Planning Officer's presentation, he was fully in support of the recommendation to refuse planning permission. The application did not comply with planning policy.
- Councillor A Swan stated he would be supporting the recommendation to refuse planning permission. This did not appear to be a viable site and was not in keeping with the surrounding area.
- Councillor D J Craig stated that he would be supporting the recommendation to refuse planning permission. The previous planning history on the site indicated to him that, if the proposed dwelling had been reduced to an appropriate size, a different conclusion may have been arrived at. However, the Planning Committee had to make a decision on the application with which it had been presented and it did not meet the minimum size standards.
- The Acting Chairman, Councillor John Palmer, stated that he would be supporting the recommendation to refuse planning permission. The proposed dwelling was too large a building for the site and amenity space would be greatly restricted.

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

Vote

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

- (vi) LA05/2022/0482/RM – Proposed dwelling with detached garage at site SW of No.7 Pot Hill Road, Lisburn

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

The Committee received Councillor N Trimble in order to speak in opposition to the application.

The audio recording of the meeting resumed at this point. (01:47:50)

Councillor N Trimble addressed a number of Members' queries.

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

Vote

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

- 4.2 Appeal Decision in respect of Planning Applications LA05/2018/0302/F, LA05/2018/0303/F and LA05/2018/0304/F (02:10:59)

It was proposed by Councillor D J Craig seconded by Alderman O Gawith and agreed to note information set out in the report in respect of the decision of the Planning Appeals Commission regarding the above planning applications.

- 4.3 Appeal Decision in respect of Planning Applications LA05/2021/0071/O and LA05/2021/0072/O (02:23:34)

It was proposed by Councillor D J Craig seconded by Alderman O Gawith and agreed to note information set out in the report in respect of the decision of the Planning Appeals Commission regarding the above planning applications.

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4.4 CPRE (Somerset) R (On the Application Of) v South Somerset District Council 2022 EWHC 2817 (Admin) (08 November 2022) (02:25:13)

It was proposed by Councillor D J Craig seconded by Alderman O Gawith and agreed to note information set out in the report in respect of the above case law which dealt with conflicts of interest in the decision-making process for planning applications.

4.5 Statutory Consultation Quarterly Performance Report – Quarter 2 for 2022/23 (02:32:21)

It was proposed by Councillor D J Craig seconded by Alderman O Gawith and agreed to note information set out in the report in respect of the Statutory Consultation Quarterly Performance Report for Quarter 2 of 2022/23.

4.6 Notification by Telecommunication Operator(s) of Intention to Utilise Permitted Development Rights (02:34:55)

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

4.7 Statutory Performance Indicators – January 2023 (02:35:21)

It was proposed by Councillor D J Craig seconded by Alderman O Gawith and agreed to note information set out in the report in respect of statutory performance indicators for January 2023.

5. Any Other Business

5.1 Update on Planning Portal (02:37:22)
Acting Chairman, Councillor John Palmer

At the request of the Acting Chairman, Councillor John Palmer, the Head of Planning & Capital Development provided an update in respect of the new planning portal. He advised that a meeting of the Planning Portal Governance Board had taken place last week to discuss issues in relation to those parts of the Planning Portal that were still presenting issues. He understood issues relating to problems experienced by customers in accessing information were to have been rectified on Friday but he did not yet have a report on that matter. In respect of issues being encountered by Planning Authorities, a series of fixes were programmed to take place over the next few months.

As discussed at the last meeting, the Head of Planning & Capital Development confirmed that (a) laptops would be provided for Members of the Planning Committee to assist in accessing information on the new Planning Portal; and (b) arrangements were currently being progressed to provide training for Members in this regard.

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5.2 Neighbour Notification (02:41:04)
Councillor D J Craig

Councillor D J Craig raised concerns in regard to apparent inconsistencies around the undertaking of neighbour notification by Planning Officers. The Head of Planning & Capital Development stated that neighbour notification was a statutory obligation and he outlined the process that all Officers followed in meeting this requirement. He further advised that this task had previously been an administrative function, but the introduction of the new Planning Portal had changed the procedure. He agreed to (a) discuss with Councillor Craig, following the meeting, the particular case he had referred to; and (b) ensure that all Officers were reminded of their statutory responsibility requirements for neighbour notification and ensure that this was being applied in a consistent manner.

5.3 Quality of Hard Copy Maps (02:54:26)
Councillor A Swan

The Head of Planning & Capital Development noted comments by Councillor A Swan regarding the poor quality of maps contained within Members' hard copy papers. He stated that this matter would be overcome when Planning Committee Members were provided with laptops and would no longer require hard copies.

5.4 Update on Blaris Development/Knockmore Link Road (02:55:08)
Councillor A Swan

Councillor A Swan sought an update on the Blaris Development/Knockmore Link Road. The Head of Planning & Capital Development advised that a report on this matter would be brought to the next meeting of the Committee.

5.5 Saintfield Road Development (03:00:26)
Councillor U Mackin

Councillor U Mackin referred to a development at Saintfield Road which the Council had refused planning permission for, but which had subsequently been approved by the Planning Appeals Commission. A condition attached to the permission was that no works should commence on site until associated roadworks had been completed. Roadworks had completed last night; however, it had been confirmed by Road Service today that road markings had been put in the wrong place. Councillor Mackin enquired how the condition on the planning application could be enforced. He also referred to the fact that there had been a revised application submitted to change the class of housing from that which had been approved.

The Head of Planning & Capital Development confirmed that Enforcement Officers within the Planning Unit would investigate the condition regarding roadworks not having been met and whether any other development had yet been commenced. He also confirmed that an application for Non-Material Change (NMC) had been received in relation to a change of house type. A further report on these matters would be brought to the Committee in due course.

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5.6 May Committee Meeting (03:07:25)

It was noted that, due to a number of Bank Holidays in May, the date of the meeting that month would require to be changed; a suitable date would be agreed in due course.

There being no further business, the meeting was terminated at 3.40 pm.

Chairman/Mayor



**Lisburn &
Castlereagh
City Council**

Planning Committee

03 April 2023

Report from:

Head of Planning and Capital Development

Item for Decision

TITLE: Item 1 – Schedule of Planning Applications to be Determined

Background and Key Issues:

Background

1. The following applications have been made to the Council as the Local Planning Authority for determination.
2. In arriving at a decision (for each application) the Committee should have regard to the guiding principle in the SPPS (paragraph 3.8) that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.
3. Members are also reminded about Part 9 of the Northern Ireland Local Government Code of Conduct and the advice contained therein in respect of the development management process with particular reference to conflicts of interest, lobbying and expressing views for or against proposals in advance of the meeting.

Key Issues

1. The applications are presented in accordance with the current scheme of delegation. There are two local applications all of which have been Called In.

- (1) LA05/2022/0195/F - Proposed change of use from agricultural out buildings to remote document storage facility including new access onto Lisnabreeny Road, on lands 20 metres south of 20 Lisnabreeny Road, Belfast.
Recommendation - Refusal
- (2) LA05/2022/0958/O - Site for one infill dwelling and garage on site adjacent to 7 Yewtree Hill Road, Maghaberry, BT67 OJQ.
Recommendation - Refusal
2. The following applications will be decided having regard to paragraphs 42 to 53 of the Protocol of the Operation of the Planning Committee.

Recommendation:

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

Finance and Resource Implications:

Decisions may be subject to:

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

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

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

Screening and Impact Assessment

1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy?

No

If no, please provide explanation/rationale

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

If yes, what was the outcome?:

Option 1

Screen out without mitigation

N/A

Option 2

Screen out with mitigation

N/A

Option 3

Screen in for a full EQIA

N/A

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

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?

No

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

No

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

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

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

SUBJECT TO PLANNING APPROVAL:

No

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

APPENDICES:

APPENDIX 1.1 - LA05/2022/0195/F
APPENDIX 1.2 - LA05/2022/0958/O

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:



Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	03 April 2023
Committee Interest	Local Application (Called In)
Application Reference	LA05/2022/0195/F
Date of Application	25 th October 2021
District Electoral Area	Castlereagh East
Proposal Description	Proposed change of use from agricultural out buildings to remote document storage facility including new access onto Lisnabreeny Road East
Location	Lands 20m south of 20 Lisnabreeny Road Belfast, BT6 9SD.
Representations	One
Case Officer	Richard McMullan
Recommendation	Refusal

Summary of Recommendation

1. This application is categorised as a local application. It is presented to the Committee for determination in accordance with the Scheme of Delegation in that it has been Called In.
2. This application is presented to the Planning Committee with a recommendation to refuse as it is considered that the proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
3. The proposal is contrary to the SPPS and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the nature and scale of the proposed non-residential use is not appropriate to a countryside location the buildings have been designed and used for agricultural purposes.
4. It is also considered that the proposal is contrary to paragraph 6.73 of the SPPS and Policy CTY 11 of Planning Policy Statement 21, Sustainable

Development in the Countryside in that it has not been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. In terms of character and scale it is also considered to be inappropriate to its location.

5. In addition, the proposal is contrary to the SPPS and policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed site is unable to provide a suitable degree of enclosure for the development to integrate into the landscape without relying primarily on the use of new landscaping.
6. Finally the proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the impact of ancillary works required to provide the development would damage the rural character of the area.
7. The proposal is contrary to the SPPS and Policy PED 2 and PED 6 of PPS 4 – Economic Development in that the storage use is not ancillary to a proposal for a community enterprise park/centre.

Description of Site and Surroundings

8. The site is located immediately adjacent to and south of an occupied dwelling at 20 Lisnabreeny Road, Belfast and is comprised of a group of a single storey agricultural outbuildings and a yard.
9. The site is accessed from the Lisnabreeny Road via an agricultural gate towards the southwestern boundary and the land within is relatively flat throughout.
10. Three outbuilding are rectangular in shape with mono-pitched (x1) & pitched roofs (x2). The walls are block construction and the roofs are corrugated tin.
11. A number of round wrapped silage bales were stored in a concrete yard area to the south east of the buildings. The site extends out into an open agricultural field, to the south of the existing buildings.

Surroundings

12. The site is in the open countryside and the surrounding land mainly in agricultural use. The area is predominantly rural in character with farmsteads and a small number of single dwellings dispersed in the landscape. .
13. There are also a number of large electricity pylons within the local area given the proximity to a large electricity substation located to the west of the site.

Proposed Development

14. The application seeks to change of use of an agricultural outbuilding to remote document storage facility including new access onto Lisnabreeny Road.

Relevant Planning History

15. There is no relevant planning history associated with the application site.

Consultations

16. The following consultations were carried out:

Consultee	Response
DfI Roads	No Objection
DAERA WMU	No objection
NI Water	No Objection
LCCC EHO	No Objection
DAERA	No objection
NED	No Objection
NIE	No Objection

Representations

17. One representation in opposition to the application has been received from the occupiers of a dwelling at 36 Lisnabreeny Road.
18. The following issues are raised:
- Inappropriate use for buildings in rural setting.
 - Increase of traffic danger with access at hazardous road junction.
 - Unsightly ancillary works within view of National Trust property

Planning Policy Context

Relevant Policy and Guidance Documents

19. The relevant policy documents are:
- Belfast Urban Area Plan 2001

- The draft Belfast Metropolitan Plan 2015
- The Strategic Planning Policy Statement (SPPS), published in September 2015,
- Planning Policy Statement 2 – Natural Heritage
- Planning Policy Statement 3 – Access
- Planning Policy Statement 4 – Planning and Economic Development
- Planning Policy Statement 6 – Built Heritage
- Planning Policy Statement 15 - Planning and Flood Risk
- Planning Policy Statement 21 – Sustainable Development in the Countryside

20. The relevant guidance is:

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

Local Development Plan Context

21. 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.
22. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
23. As a consequence, the Belfast Urban Area Plan 2001 is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
24. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside beyond any defined settlement limit and as there is no difference in the local plan context.
25. Policy COU 7 of draft BMAP 2015 - Areas of High Scenic Value states that;
- planning permission will not be granted to development proposals that would adversely affect the quality, character and features of interest in Areas of High Scenic Value. Proposals for mineral working and waste disposal will not be acceptable.*
26. The Belfast Urban Area Plan 2001 states
- The plan contains a statement of the rural planning policy for the Belfast Urban Area Green Belt which covers parts of nine District Council Areas. Following the adoption of the Belfast Urban Area Plan 2001, Area Plans will be prepared for Castlereagh and Newtownabbey Boroughs.*
27. In respect of draft BMAP, page 16 states that

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

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

Regional Policy Context

28. The SPPS states that

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

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

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

29. Paragraph 3.8 of the SPPS states

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

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

31. Paragraph 4.11 of the SPPS states that

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

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

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

34. Paragraph 4.12 of the SPSS states

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

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

36. Paragraph 6.73 of the SPSS states that

provision should be made for a farm diversification scheme where the farm business is currently active and established (for a minimum 6 years) and, the proposal is to be run in conjunction with the agricultural operations of the farm. Proposals must involve the re-use or adaptation of existing buildings, with new buildings only being acceptable in exceptional circumstances;

37. Paragraph 6.78 of the SPSS states that

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

38. Paragraph 6.174 of the SPSS states that

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

39. Paragraph 6.182 of the SPSS states that

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

40. Paragraph 6.198 of the SPPS states that

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

41. Paragraph 6.99 of the SPPS states that

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

42. Paragraph 6.103 of the SPPS states that

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

43. Paragraph 6.132 of the SPPS states that

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

44. Paragraph 6.1 of the SPPS states that

Archaeological and built heritage assets such as tombs and ring forts, historic and vernacular buildings, planned parklands, buildings and features associated with industrial heritage, are all important sources of information about our past, and are often significant landmarks in the present townscape and countryside. This archaeological and built heritage constitutes an irreplaceable record which contributes to our understanding of both the present and the past and is an important economic resource. Their presence usually adds to the quality of our lives and promotes a sense of local distinctiveness which is an important aspect of the character and appearance of cities, towns, villages and the countryside.

45. *Paragraph 6.3 of the SPPS states that*

The planning system has a key role in the stewardship of our archaeological and built heritage. The aim of the SPPS in relation to Archaeology and Built Heritage is to manage change in positive ways so as to safeguard that which society regards as significant whilst facilitating development that will contribute to the ongoing preservation, conservation and enhancement of these assets.

Building on Tradition

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

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

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

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

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

Sustainable Development in the Countryside

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

48. Policy CTY 1 states that

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

The policy states:

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

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

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

49. The policy also states that

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

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

There are a range of other types of non-residential development that may be acceptable in principle in the countryside, e.g. certain utilities or telecommunications development. Proposals for such development will continue to be considered in accordance with existing published planning policies.

Conversion and Reuse of Existing Buildings

50. Policy CTY 4 – Conversion and Reuse of Existing Buildings states that

Planning permission will be granted to proposals for the sympathetic conversion, with adaptation if necessary, of a suitable building for a variety of alternative uses, including use as a single dwelling, where this would secure its upkeep and retention. Such proposals will be required to be of a high design quality and to meet all of the following criteria:

- (a) *the building is of permanent construction;*
- (b) *the reuse or conversion would maintain or enhance the form, character and architectural features, design and setting of the existing building and not have an adverse effect on the character or appearance of the locality;*

- (c) *any new extensions are sympathetic to the scale, massing and architectural style and finishes of the existing building;*
- (d) *the reuse or conversion would not unduly affect the amenities of nearby residents or adversely affect the continued agricultural use of adjoining land or buildings;*
- (e) *the nature and scale of any proposed non-residential use is appropriate to a countryside location;*
- (f) *all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality; and*
- (g) *access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.*

Buildings of a temporary construction such as those designed and used for agricultural purposes, including sheds or stores will not however be eligible for conversion or re-use under this policy.

Exceptionally, consideration may be given to the sympathetic conversion of a traditional non-residential building to provide more than one dwelling where the building is of sufficient size; the scheme of conversion involves minimal intervention; and the overall scale of the proposal and intensity of use is considered appropriate to the locality.

Farm Diversification

51. Policy CTY 11 states that:

Planning permission will be granted for a farm or forestry diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm.

The following criteria will apply:

- (a) *the farm or forestry business is currently active and established;*
- (b) *in terms of character and scale it is appropriate to its location;*
- (c) *it will not have an adverse impact on the natural or built heritage; and*
- (d) *it will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.*

Proposals will only be acceptable where they involve the re-use or adaptation of existing farm buildings.

Exceptionally, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they are essential for the maintenance of the existing farm enterprise, are clearly

unsuitable for adaptation and re-use or cannot be adapted to meeting the requirements of other statutory agencies.

Where a new building is justified it should be satisfactorily integrated with an existing group of buildings.

52. The justification and amplification to Policy CTY 9 states:

5.46 The Government is committed to supporting the process of farm diversification where it is compatible with other objectives for the countryside.

5.47 This policy aims to promote forms of diversification that are sustainable in the countryside, including suitable tourism or agri-tourism schemes. It is important that the countryside is not spoilt by the unfettered development of urban uses. Diversification proposals, therefore, should be of a scale and nature appropriate for the location and be capable of satisfactory integration into the rural landscape. Applications for large-scale proposals more suitable to the urban area or existing urban-based enterprises seeking relocation will not be acceptable.

5.48 Where a new building is proposed, the applicant will be required to provide sufficient information to satisfactorily demonstrate why existing buildings cannot be used.

5.49 For the purposes of this policy the determining criteria for an active and established business will be that set out under Policy CTY 10.

Integration and Design of Buildings in the Countryside

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

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

54. The policy also states that

- (a) a new building will be unacceptable where:*
- (b) it is a prominent feature in the landscape; or*
- (c) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
- (d) it relies primarily on the use of new landscaping for integration; or*
- (e) ancillary works do not integrate with their surroundings; or*
- (f) the design of the building is inappropriate for the site and its locality; or*
- (g) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*

- (h) *in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

Rural Character

55. Policy CTY 14 – Rural Character states

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

56. The policy states that

A new building will be unacceptable where:

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

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

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

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

Development Relying on Non-Mains Sewerage

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

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

59. The policy also states that:

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

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

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

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

Natural Heritage

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

62. Policy NH 1 – European and Ramsar Sites states

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

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

63. The policy also states that

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

Appropriate mitigation measures in the form of planning conditions may be imposed. In light of the conclusions of the assessment, the Department shall

agree to the development only after having ascertained that it will not adversely affect the integrity of the site.

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

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

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

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

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

65. The policy also states that

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

Access, Movement and Parking

66. PPS 3 - Access, Movement and Parking and PPS 3 (Clarification), set out the policies for vehicular access and pedestrian access, transport assessments, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning and it embodies the Government's commitment to the provision of a modern, safe, sustainable transport system.
67. Policy AMP 2 – Access to Public Roads states

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

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

Development Control Advice Note 15 – Vehicular Access Standards

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

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

Planning and Economic Development

69. PPS 4 – Planning and Economic Development sets out the planning policies for economic development uses.
70. For the purposes of this PPS, economic development uses comprise industrial, business and storage and distribution uses, as currently defined in Part B ‘Industrial and Business Uses’ of the Planning (Use Classes) Order (Northern Ireland) 2004.
71. Class B4: Storage or distribution relates to a use for storage or as a distribution centre.

Economic development in the Countryside

72. Policy PED 2 – Economic development in the Countryside states that

Proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following policies:

- The Expansion of an Established Economic Development Use – Policy PED 3
- The Redevelopment of an Established Economic Development Use – Policy PED 4
- Major Industrial Development – Policy PED 5
- Small Rural Projects – Policy PED 6

Economic development associated with farm diversification schemes and proposals involving the re-use of rural buildings will be assessed under the

provisions of Planning Policy Statement 21 'Sustainable Development in the Countryside'.

All other proposals for economic development in the countryside will only be permitted in exceptional circumstances.

Small Rural Projects

73. Policy PED 6 – Small Rural Projects states that

A firm proposal to develop a small community enterprise park/centre or a small rural industrial enterprise on land outside a village or smaller rural settlement will be permitted where it is demonstrated that all the following criteria are met:

- (a) there is no suitable site within the settlement;*
- (b) the proposal would benefit the local economy or contribute to community regeneration; and*
- (c) the development is clearly associated with the settlement, but will not dominate it, adversely affect landscape setting or otherwise contribute to urban sprawl.*

In assessing the acceptability of sites, preference will be given to sites in the following order:

- (1) land adjacent to the existing settlement limit, subject to amenity and environmental considerations;*
- (2) a site close to the settlement limit which currently contains buildings or where the site is already in a degraded or derelict state and there is an opportunity to improve the environment; and*
- (3) an undeveloped site in close proximity to the settlement where the development could be visually integrated into the landscape.*

Where an economic development proposal is permitted under this policy, any subsequent proposal should preferably be sited to cluster or visually link to this, subject to amenity and environmental considerations.

Storage or distribution uses will only be permitted where these are clearly ancillary to a proposal for a community enterprise park/centre or an industrial use.

Assessment

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

Farm Diversification

75. This is a full application for the change of use from agricultural out buildings to remote document storage facility including new access onto Lisnabreeny Road, which falls to be considered 'policy CTY11 Farm Diversification'.
76. Planning appeal reference 2012/A0073 provides some direction as to how farm diversification projects should be assessed.

77. Paragraph 4 of this decision states that

*other types of development will only be permitted via policy CTY1 of PPS 21 'where there **are overriding reasons** why that development is **essential and could not be located in a settlement**. The range of acceptable development includes farm diversification proposals in accordance with Policy CTY 11.*

78. Paragraph 12 of the decision notes that

policy (CTY 11) provides no explanation of the requirement, 'to be run in conjunction with the agricultural operations on the farm'.

79. That said, it is suggested that there should be some sort of joint management of the business or some form of business connection.

80. This application seeks permission to provide a 'remote document storage facility'. This use would fall within Part B - Industrial and Business Uses Class B4: Storage or Distribution of The Planning (Use Classes) Order (Northern Ireland) 2015.

81. Paragraph 5.47 of the justification and amplification to Policy CTY 11 states that

This policy aims to promote forms of diversification that are sustainable in the countryside, including suitable tourism or agri-tourism schemes. It is important that the countryside is not spoilt by the unfettered development of urban uses. Diversification proposals, therefore, should be of a scale and nature appropriate for the location and be capable of satisfactory integration into the rural landscape. Applications for large-scale proposals more suitable to the urban area or existing urban-based enterprises seeking relocation will not be acceptable.

82. A statement provided in support of the application explains that the the applicant intends to run this document storage enterprise in order to derive an additional revenue stream from the farm.
83. The view is expressed that the nature of the use is such that it will not take up a significant amount of the applicant's time nor will it dwarf his agricultural activities (nor indeed take primacy).

84. The applicant team consider that the proposal is small scale and inextricably linked with the adjacent property and would thus not likely function on a standalone basis (if the applicant did not intend to run this in conjunction with the agricultural operations on the farm). It is anticipated that a planning condition could be applied to a planning approval if the Council considered it necessary to prevent the enterprise being sold off or divorced from the holding.
85. The statement also acknowledges that commercial storage is frequently discouraged in the open countryside but that this is a specialised, small-scale and low key form of storage. The view is also expressed that the development will not be inappropriate at this location as there will be little awareness of any changes to the buildings.
86. The proposal is assessed against criteria (a) of policy CTY 11 and advice from DAERA Countryside Management Inspectorate Branch indicates that the farm business ID under which this application has been submitted has been in existence for more than 6 years and that payments via the Basic Payment Scheme or Agri. Environment Scheme in each of the last 6 years. Based on this advice, it is considered that the farm business is currently active and established.
87. That said, it is noted that part of the application site (required to provide access to the site) is not located on lands for which payments are currently being claimed by the farm business. Advice also indicates that the proposed site located on FSN 3/024/060 field 5 is land associated with another farm business.
88. It is evident from an assessment of the submitted farm maps (2022 Scheme Map) that part of the site (field into which this application extends into to provide access to the in situ buildings) is not within the applicants farm business. However, it is noted that it is outlined in blue indicating that the applicant owns the land. No challenges have been made in respect of this matter.
89. Following receipt of the DAERA consultation response, further clarification has been provided in respect of the site not falling within the applicant's farm business.
90. Advice received confirms that the applicant owns the land that adjoins this site and he lets that farm land out in conacre (it is assumed that the tenant farmer claims Single Farm Payment for same). This is in addition to his own farming activities.
91. The building is situated on land owned by the applicant, and used by him in connection with his everyday farming, which is separate from his adjacent land (that is rented to a third party). The applicant uses the buildings for animal feed and farm storage. The tenant farmer does not enjoy use of the buildings on the application site.
92. An assessment of the submitted P1C form illustrates that the applicant's farm business is registered under his name at 29 Lisnabreeny Road, Belfast, which

- is to the south of the application site and outlined in blue within the submitted site location map. It is seen to consist of a large detached dwelling with a number of associated outbuildings which are seen to be agricultural in design and scale.
93. Taking the information as provided into account it is accepted that the applicant's farm business is currently active and established. Buildings do not be included within SFP maps as claims against such land cannot be made. It has been outlined that the land into which the site extends into is within the applicant's ownership but is currently let out in conacre.
 94. Further information provided by the applicant (further supporting statement) which references PAC appeal 2021/A0087 is noted and acknowledged but does not sit on all fours with this proposal and afforded only limited weight in terms of how the policy is applied.
 95. Having reviewed the detail of the supporting statement, it is considered that insufficient information has been provided to demonstrate how the development as proposed is to be run in conjunction with the agricultural operations on the applicant's farm holding.
 96. No information has been provided to outline the nature of the applicant's farm business nor has information been provided to demonstrate how a proposal for the storage of documents is to be run in conjunction with the operations on the farm.
 97. It is considered that the information provided to date demonstrates the potential for a stand-alone storage and distribution facility to be developed in the open countryside – a business that has not association with the operations of the farm holding apart from providing an additional revenue stream.
 98. The supporting statement indicates that the proposal would not likely function on a standalone basis (if the applicant did not intend to run this in conjunction with the agricultural operations on the farm). It is also recommended that a planning condition could be applied to a planning approval if the Council considered it necessary to prevent the enterprise being sold off or divorced from the holding.
 99. Where there is no firm evidence linking the proposal as an farm diversification proposal to an established business such a use in the countryside would still require to be assessed against Planning Policy Statement 4 - Policy PED 2 - Economic Development in the Countryside' as it is noted that PED 2 requires economic development proposals involving the re-use of rural buildings to be assessed under the provisions of PPS 21.
 100. These buildings are designed specifically for the purposes of agriculture. It is stated at policy CTY 4 that planning permission will be granted for a proposals for the sympathetic conversion, with adaptation if necessary, of a suitable building for a variety of alternative uses, including use as a single dwelling,

where this would secure its upkeep and retention. In this case, it is considered that the nature and scale of the proposed non residential use is not appropriate to this countryside location for the reasons outlined.

101. Furthermore and with regard to Policy PED 6 – Small Rural Projects the application is not presented as a proposal to develop a small community enterprise park/centre or a small rural industrial enterprise on land outside a village or smaller rural settlement.
102. Storage or distribution uses will only be permitted where these are clearly ancillary to a proposal for a community enterprise park/centre or an industrial use. This policy test is not considered to be met.
103. Additional supporting information expresses the view that the buildings associated with the proposal are not suitable for generalised or unfettered storage use. Reference is made to the activity associated with the business would involve the applicant carrying out one daily run-with files picked out in the evening for distribution the following day.
104. The view is also expressed that a medium-sized commercial van would be the typical vehicle that would be servicing this proposal. The appearance of such vehicles on the site, in small numbers (i.e. 1-2 maximum) would not create a perception of an unfettered urban use of the type that is actively discouraged by the policy's justification and amplification.
105. This is in contrast to information provided within the Transport Assessment Form provided within the application which indicates that 'occasional access for storage between 3-5 vehicle movements per day', which is higher than that outlined within the last submitted supporting statement.
106. The submitted P1 application form also outlines within it that 8 visitors/customers are expected to attend the site on a daily basis (8 vehicles) as well as 1 staff member. This is considered to be in contrast to what has been outlined within the additional supporting information provided.
107. The view is also expressed that restricting the use by way of condition would ensure that the proposal could not morph from a document store to a generalised storage and distribution facility.
108. In consideration of the points raised, the proposal is for a storage and distribution facility as evidenced by the supporting information provided and it has not been demonstrated that there are overriding reasons why the development is essential at this location nor is evidence provided to explain why it could not be located in a settlement.
109. For completeness the proposal is also considered against the other requirements of policy CTY 11.
 - b) In terms of character and scale it is appropriate to its location

110. The character and scale of the outbuildings associated with this change of use application are typical of a rural location. No alterations are proposed.
111. To provide access to the site the development will extend into an agricultural field to the south of the in existing out buildings.
112. It is considered that the works associated with the laying of this internal road would result in the development/buildings being more visible within the local landscape. Measurements illustrates that the area of the site currently is approx. 0.10h.
113. To provide the access standards, the proposed development would more than double the size of the site from 0.10 hectares to 0.24 hectares. This increase more than doubles the size of the site. It is considered that there are inadequate boundaries to aid integration and that the development would have an adverse impact on the rural character of the area.
 - c) It will not have an adverse impact on the natural or built heritage
114. A Northern Ireland Biodiversity Checklist uploaded to the Planning Portal on the 30 March 2022 has been considered as part of the assessment of the application.
115. Advice from Natural Environment Division [NED] notes that the Ecologist did not find any evidence of badgers during their site visit on the 3rd March 2022. Likewise, no issues of concern were identified when officers carried out their site inspection.
116. Advice from NED refers to Drawing Number 03 (subsequently amended to 03a) and to the reference made to a section of hedgerow identified to be replaced and that the vegetation on the site may support breeding birds.
117. The applicant is reminded of their obligations under the Wildlife (Northern Ireland) Order 1985 (as amended), known as the Wildlife Order and it is recommended that any removal of buildings/structures and vegetation on site should be undertaken outside the bird breeding season which occurs from 1st March to 31st August, or checked by a suitably qualified ecologist with protective measures undertaken if any active nest is found.
118. Taking the above into account it is considered that no harm shall arise in respect of any protected species or habitats. The development as proposed is in keeping with the requirements of criteria (c).
119. No built heritage features of note are within proximity of the development.
 - d) It will not result in detrimental impact on the amenity of nearby residents

120. Advice received from the Councils Environmental Health Unit confirm that they have no objections to the development as proposed as the development seeks to re-use existing farm buildings within the applicants holding.
121. Taking the above into consideration it is considered that the development will not result in any detrimental impacts upon neighbouring residential amenity and no issues of concern regarding noise, smell and/or pollution shall arise.

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

Integration and Design of Buildings in the Countryside

122. As this development seeks to change the use of existing buildings no issues with respect to prominence should arise.
123. The development involves the removal of the existing road side hedging which partly defines the western boundary of the site. This in conjunction with the undefined southern boundary and partly undefined eastern boundary of the site means that the development would rely upon new landscaping for integration purposes.
124. The site is open to public views from the Lisnabreeny Road and Lisnabreeny Road East. The development as proposed would open the site up to these public views (extending into field to the south of the site to provide access as required) which would not integrate into the local landscape.
125. The design of the buildings within the site shall remain as existing given that the proposed development seeks to change their use only.
126. This development as proposed is not a dwelling upon a farm and therefore does not need to be site with an established building group within the applicant's farm holding.
127. For the reasons outlined above, the proposal fails to comply with the policy tests associated with Policy CTY 13.

Rural Character

128. In terms of policy CTY 14 the development is not prominent No new buildings are proposal and as such, build-up of development will not be an issue.
129. Likewise the pattern of development will not change nor will the development add to the ribbon of development as noted on the ground.
130. It is considered that the ancillary works required to provide access to the site will greatly raise awareness of the existing buildings and the proposed alternative use.

131. To achieve adequate splays a driveway of approximately 42 metres in length, extending into a grassed agricultural field, with no established boundary adjacent to it, is required. This will result in hedgerow removal along the western boundary of the site and also opposite the site entrance to provide for a 79m forward site splay.
132. For the reasons outlined above, it is considered that the works proposed to provide for the development in this instance would damage the rural character of the area contrary to policy CTY 14.

Development Relying on Non-Mains Sewerage

133. Detail submitted with the application indicates that the development seeks to provide a new septic tank as per the submitted details.
134. The Councils Environmental Health Unit and & DAERA Water Management Unit have been consulted and offer no objections.
135. Based on a review of the detail provided and advice received, it is considered that the proposed use of a septic tank will not create or add to a pollution problem. The requirements of policy CTY 16 are met.

Access, Movement and Parking

136. The detail provided within the application illustrates that a new access is to be created to serve the development as proposed. Adequate parking space shall be provided within the site.
137. The Lisnabreeny Road, onto which access is taken is not a Protected Route, therefore policy AMP 3 of PPS 3 is not engaged in this instance.

DfI Roads offer no objections to the development as proposed. As such it is considered that the development will not prejudice road safety or inconvenience the flow of traffic consistent with the tests set out in Policy AMP 2 of PPS 3.

Natural Heritage

138. As explained above within the context of Policy CTY 11 considerations, no issues of concern shall arise with respect to any features of natural heritage. The requirements of policy NH 1 and NH 5 are met for the same reasons as outlined previously in the report.

Area of High Scenic Value

139. It is noted that the site is located within an Area of High Scenic Value and a Landscape Analysis has been provided in support of the application.

140. Following consideration of same it is considered that the development would result in adverse harm to the designated AOHSV. It is considered that this is as a result of the scale of the development, expanding into open countryside in conjunction with its lack of integration as outlined previously in the assessment above.

Consideration of Representations

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

Inappropriate use for buildings in rural setting.

142. When assessed against prevailing planning policy it is considered that the development as proposed would be an inappropriate use as suggested.

Increase of traffic danger with access at hazardous road junction.

143. DfI Roads have been consulted within the processing of this application and can be seen to offer no objections. As such it is considered that no issues of concern in respect of traffic danger/road safety shall arise.

Unightly ancillary works within view of National Trust property.

144. The assessment demonstrates that the ancillary works as outlined would be visually unacceptable.

Conclusions

145. This application is presented to the Planning Committee with a recommendation to refuse as it is considered that the proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
146. The proposal is contrary to the SPPS and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the nature and scale of the proposed non-residential use is not appropriate to a countryside location the buildings have been designed and used for agricultural purposes.
147. It is also considered that the proposal is contrary to paragraph 6.73 of the SPPS and Policy CTY 11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that it is to

be run in conjunction with the agricultural operations on the farm. In terms of character and scale it is also considered to be inappropriate to its location.

148. In addition, the proposal is contrary to the SPPS and policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed site is unable to provide a suitable degree of enclosure for the development to integrate into the landscape without relying primarily on the use of new landscaping.
149. Finally the proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the impact of ancillary works required to provide the development would damage the rural character of the area.

Recommendations

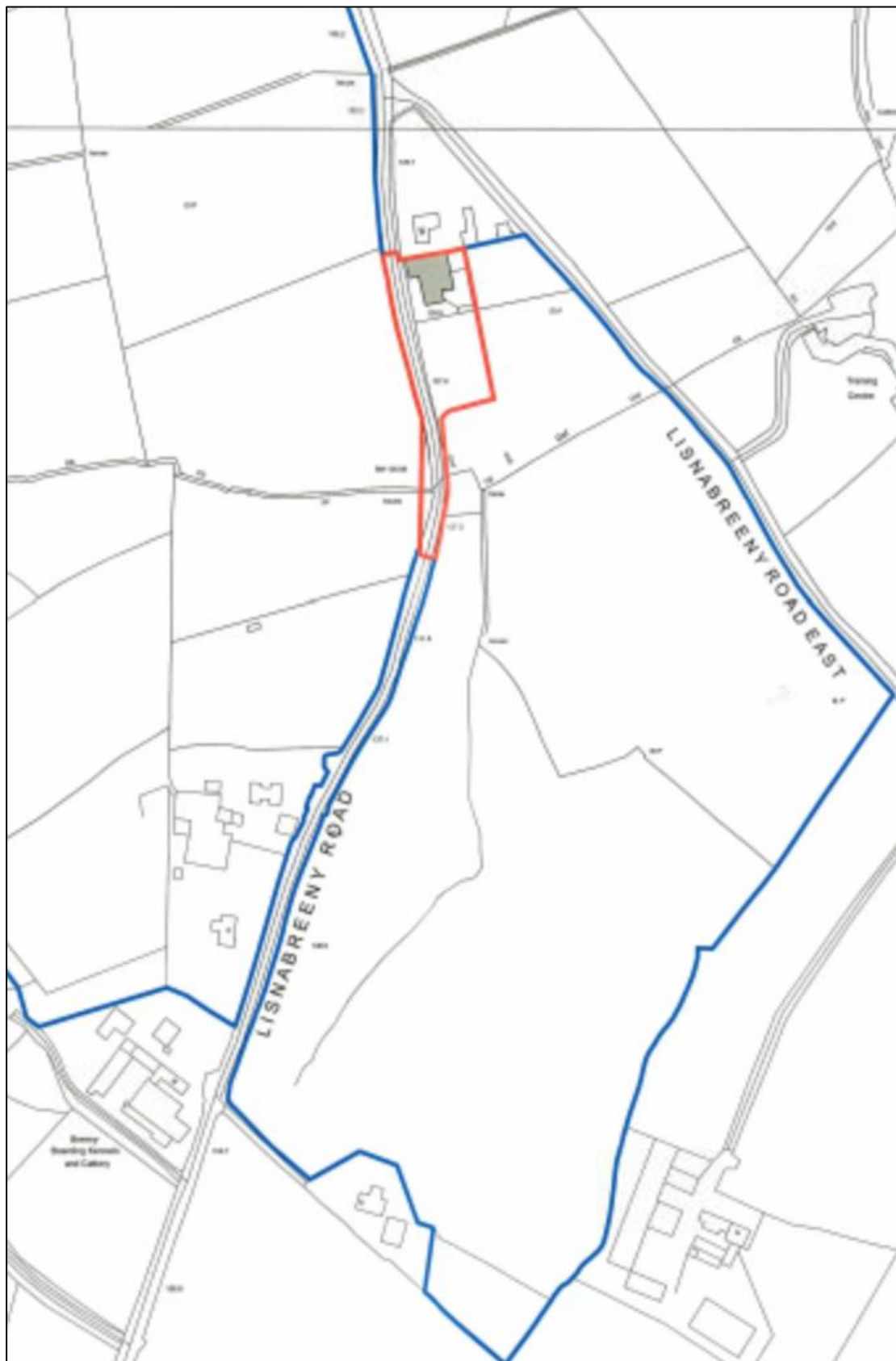
150. It is recommended that planning permission is refused.

Refusal Reasons

151. The following refusal reasons are recommended:
- The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
 - The proposal is contrary to the SPPS and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the nature and scale of the proposed non-residential use is not appropriate to a countryside location the buildings have been designed and used for agricultural purposes.
 - The proposal is contrary to Para 6.73 of the SPPS and Policy CTY 11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that it is to be run in conjunction with the agricultural operations on the farm or that the character and scale would be appropriate to its location.
 - The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed site is unable to provide a suitable degree of enclosure for the development to integrate into the landscape and that it would rely primarily on the use of new landscaping for integration.

- The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the impact of ancillary works required to provide the development would damage the rural character of the area.
- The proposal is contrary to the SPPS and Policy PED 2 and PED 6 of PPS 4 – Economic Development in that the storage use is not ancillary to a proposal for a community enterprise park/centre.

Site Location Plan – LA05/2022/0195/F



Lisburn & Castlereagh City Council

Council/Committee	Planning Committee
Date of Meeting	03 April 2023
Committee Interest	Local Application (Called In)
Application Reference	LA05/2022/0958/O
Date of Application	17 October 2022
District Electoral Area	Killultagh
Proposal Description	Proposed infill dwelling and garage
Location	Site Adjacent to 7 Yewtree Hill Road, Maghaberry, BT670JQ
Representations	None
Case Officer	Joanna Magee
Recommendation	Refusal

Summary of Recommendation

1. The application is presented to the Committee with a recommendation to refuse as, it is considered that the proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 1 of Planning Policy Statement 21 - Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. In addition the proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 8 of Planning Policy Statement 21 - Sustainable Development in the Countryside, in that the application site is not located within a small gap within an otherwise substantial and continuously built up frontage which meets other planning and environmental requirements and if permitted would create a ribbon of development along Yewtree Hill Road.
3. Furthermore the proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 14 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposal would if permitted result in a suburban style build-up of development when viewed with existing buildings,

would not respect the traditional pattern of settlement exhibited in the area and would create a ribbon of development along Yewtree Hill Road.

Description of Site and Surroundings

Site

4. The application site is located to the western side of Yewtree Hill Road adjacent to an occupied dwelling at 7 Yewtree Hill Road. The land within is generally rising from the southeast to the northwest.
5. It is comprised of part of a larger agricultural field and the southern boundary is defined by a hawthorn hedge with a field gate. The northern boundary is currently undefined as the proposed site is part of a larger field.
6. The eastern boundary along the roadside contains a low lying hawthorne hedge that sweeps around the bend while the western boundary is defined by mature trees forming a backdrop to the site and boundary with the dwelling at 7 Yewtree Hill Road.

Surroundings

7. The site is located in the open countryside and the surrounding lands are primarily in agricultural use.
8. There is some evidence of a build-up of development comprised mainly of detached dwellings and farm buildings in the general vicinity of the site. Maghaberry is also located approximately 500 distant to the west of the junction of Yewtree Hill Road and Glen Road.

Proposed Development

9. This is an outline application for a dwelling and garage

Relevant Planning History

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

Reference Number	Description	Location	Decision
LA05/2011/0892	Proposal for two infill dwellings and garages accessed off a shared lane	Adjacent to 7 Yewtree Hill Road, Maghaberry	Withdrawn

Consultations

11. The following consultations were carried out:

Consultee	Response
DAERA Water Management Unit	No objection
DAERA Natural Environment Division	No objection
LCCC Environmental Health	No objection
HED Historic Monuments	No objection
NI Water	No objection
DFI Roads	No objection

Representations

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

Planning Policy Context

Relevant Policy and Guidance Documents

13. The relevant policy documents are:

- The Lisburn Area Plan
- The draft Belfast Metropolitan Plan 2015
- The Strategic Planning Policy Statement (SPPS), published in September 2015
- Planning Policy Statement 2 (PPS 2) – Natural Heritage
- Planning Policy Statement 3 (PPS 3) – Access, Movement and Parking

- Planning Policy Statement 6 (PPS 6) – Planning Archaeology & the Built Heritage
- Planning Policy Statement 15 (PPS 15) – Planning and Flood Risk
- Planning Policy Statement 21 (PPS 21) – Sustainable Development in the Countryside

14. The relevant guidance is:

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

Local Development Plan Context

15. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on planning applications, regard must be had to the requirements of the local development plan and that determination must be in accordance with the plan unless material considerations indicate otherwise.
16. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Plan 2015 had not been lawfully adopted.
17. As a consequence, the Lisburn Area Plan is the statutory development plan however the draft Belfast Metropolitan Plan 2015 remains a material consideration.
18. In both the statutory development plan and the draft BMAP, the application site is identified in the open countryside beyond any defined settlement limit.
19. Page 49 of the Lisburn Area Plan 2001 states
- that the Departments regional development control policies for the countryside which will apply in the Plan area are currently set out in the various Planning Policy Statements published to date.*
20. In respect of draft BMAP, page 16 states that

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

In addition to the existing and emerging suite of PPSs, the Department is undertaking a comprehensive consolidation and review of planning policy in order to produce a single strategic planning policy statement (SPPS) which will reflect a new approach to the preparation of regional planning policy. The preparation of the SPPS will result in a more strategic, simpler and shorter statement of planning policy in time for the transfer of planning powers to

Councils. Good practice guides and supplementary planning guidance may also be issued to illustrate how concepts contained in PPSs can best be implemented.

Regional Policy Context

21. The SPPS states that

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

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

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

22. Paragraph 3.8 of the SPPS states

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

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

24. Paragraph 4.11 of the SPPS states that

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

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

26. Paragraph 4.12 of the SPPS states

that other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations,

impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.

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

28. Paragraph 6.73 of the SPPS states that

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

29. Paragraph 6.78 of the SPPS states that

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

Sustainable Development in the Countryside

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

31. Policy CTY 1 states that

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

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

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

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

32. The policy also states that

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

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

33. This is a proposal for the development of a gap site for a dwelling and garage and is to be assessed against the requirements of policy CTY 8.
34. In addition to CTY 8, there are other CTY policies that are engaged as part of the assessment including CTY13, 14 and 16, and they are also considered.
35. Policy CTY 8 – Ribbon Development states

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

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

36. A building is defined in statute to include a structure or erection, and any part of a building as so defined.
37. Regard is also had to the justification and amplification which states

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

5.33 For the purposes of this policy a road frontage includes a footpath or private lane. A ribbon does not necessarily have to be served by individual

accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.

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

Building on Tradition

38. Whilst not policy, and a guidance document, the SPPS states

that regard must be had to the guidance in assessing the proposal. This notes:

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

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

39. The guidance also suggests:

- It is not acceptable to extend the extremities of a ribbon by creating new sites at each end.
- Where a gap frontage is longer than the average ribbon plot width the gap may be unsuitable for infill.
- When a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots.
- Some ribbon development does not have a consistent building set back. Where this occurs the creation of a new site in the front garden of an existing property is not acceptable under CTY 8 if this extends the extremities of the ribbon.
- A gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon.

40. It also notes at the following paragraphs that:

4.5.0 *There will also be some circumstance where it may not be considered appropriate under the policy to fill these gap sites as they are judged to offer an important visual break in the developed appearance of the local area.*

4.5.1 *As a general rule of thumb, gap sites within a continuous built up frontage, exceeding the local average plot width may be considered to constitute an important visual break. Sites may also be considered to constitute an important visual break depending on local circumstances. For example, if the gap frames a viewpoint or provides an important setting for the amenity and character of the established dwellings.*

41. Regard has been had to the principles and examples set out in Building on Tradition in considering this proposal and planning judgement applied to the issues to be addressed.
42. It includes infill principles with examples that have been considered as part of the assessment:
- Follow the established grain of the neighbouring buildings.
 - Allow for clear definition of front and back, public and private sides to the plot which help address overlooking issues.
 - Design in scale and form with surrounding buildings
 - Retain existing boundaries where possible and construct new boundaries using native hedgerows and natural stone walls to assist integration and local biodiversity
 - Use a palette of materials that reflect the local area
43. Policy CTY 13 – Integration and Design of Buildings in the Countryside states that
- planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.*
44. The policy states that
- a new building will be unacceptable where:*
- (a) *it is a prominent feature in the landscape; or*
 - (b) *the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
 - (c) *it relies primarily on the use of new landscaping for integration; or*
 - (d) *ancillary works do not integrate with their surroundings; or*
 - (e) *the design of the building is inappropriate for the site and its locality; or*
 - (f) *it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*

(g) *in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

45. Policy CTY 14 – Rural Character states

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

46. The policy states that

A new building will be unacceptable where:

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

47. With regards to Policy CTY14, Building on Tradition [page 131] states that

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

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

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

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

49. The policy also states that

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

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

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

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

Natural Heritage

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

52. Policy NH 1 – European and Ramsar Sites states

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

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

53. The policy also states that

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

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

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

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

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

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

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

55. The policy also states that

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

Access, Movement and Parking

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

57. Policy AMP 2 – Access to Public Roads states

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

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

Development Control Advice Note 15 – Vehicular Access Standards

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

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

Planning Archaeology & the built Heritage

59. PPS 6 - Planning Archaeology & the built Heritage sets out the planning policies for the protection and conservation of archaeological remains and features of the built heritage.
60. Policy BH 4 Archaeological Mitigation:

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

Assessment

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

Ribbon Development

62. As the Courts have noted in the Glassdrumman Road, Ballynahinch case, officers bear in mind that the policy in CTY8 is restrictive, and there is a prohibition against ribbon development. The first step is to consider whether the proposal adds to ribbon development, and if it does, does the proposal fall into the permissible exceptions to that policy.
63. Officers are satisfied that the proposal does engage ribbon development as it involves roadside development.

The issue of exception

64. The next step of the policy test is to consider whether the proposal comes within the exception set out in the policy.

65. The applicant must satisfy the policy exception and demonstrate that an otherwise substantial and continuously built up frontage exists. As mentioned, a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
66. The assessment that follows assesses those buildings that are considered to form part of the frontage.
67. Regard is had to the statutory definition of a building. The policy does not specify what type or size of building is to be considered as part of the substantial and continuously built-up frontage.
68. In terms of a substantial and continuously built up frontage, the applicant is relying upon the buildings at 7 Yewtree Hill Road to the south west of the application site and the dwelling and associated buildings located at 8 Yewtree Hill Road to the east of the application site.
69. The buildings associated with 7 Yewtree Hill Road located to the south west of the proposed site comprise a two storey dwelling and ancillary out-buildings. Only the dwelling has a frontage to the Yewtree Hill Road. The other ancillary buildings within the curtilage do not have a frontage to the road.
70. To the north there are no other buildings along the western side of the Yewtree Hill Road that have a common boundary with the site which present a frontage to the road that 'book end' the gap.
71. The closest building to the north is a new dwelling adjacent to 1 Yewtree Hill Road which is set back approximately 80 metres and accessed from a private lane. This building has no frontage to the road. There is a paddock in between this site and the road.
72. The dwellings at 1 and 3 Yewtree Hill Road are separated from the site by the private land to two dwellings and a farmyard a 5a Yewtree Hill Road and are not counted as a bookend along the frontage as part of this assessment.
73. Instead, the applicant relies upon a dwelling and outbuildings to the east of the site on the opposite side of Yewtree Hill Road. As they do not share a common frontage to Yewtree Hill Road with the application site and served from a private lane they are not counted as part of the road frontage for the purpose of assessment.
74. The proposal therefore fails the exceptions test in that there is no substantial and continuously built up frontage comprised of three or more buildings.
75. Whilst the first part of the exception test is not met, the second step is also considered to determine whether this site is a small gap site sufficient only to accommodate up to a maximum of two houses exists.

76. In considering whether a small gap site exists, while the policy text and supplementary guidance recognises that such a site may be able to accommodate two infill dwellings which respect the existing development pattern, officers have not assumed that any site up to that size is necessarily a small gap site within the meaning of the policy.
77. Officers remain mindful that the issue remains one of planning judgement, and one which should be approached bearing in mind the over-arching restrictive purpose of the policy.
78. The gap between the dwelling at 7 Yewtree Hill Road and 1 Yewtree Hill Road (the closet building on the same road frontage) measures approximately 280 metres building to building.
79. An assessment of the frontage plot widths being relied on is as follows;
- No. 7 Yewtree Hill Road – 53 metres
No. 8 Yewtree Hill Road - 70 metres
Proposed site – 60 metres
80. The average plot frontage of these two sites is 61 metres and as such, notwithstanding that there is no gap, a dwelling on the proposed site would not be considered to be in keeping with the existing frontages. It is too wide and could accommodate more than two dwellings.
81. In terms of assessing the proposal against the existing development pattern the site has similar characteristics as the other plots being relied upon in terms of its size and shape and it has the capacity to accommodate a building of similar dimension, orientation and design to others found in the immediate local context.
82. The plots sizes being relied upon is comprised of the following:
- 7 Yewtree Hill Road – 0.3ha
8 Yewtree Hill Road – 0.3ha
Proposed site – 0.3ha
83. For the purpose of assessment notwithstanding the fact that the proposal does not meet the first two parts of the exception test for the reasons outlined above, the site in terms of its width and plot size is considered to be consistent with the established pattern of development.

Visual Break

84. Consideration has also been given to the significance of the gap. The site is framed by a strong roadside hedge which climbs the hill as the topography rises and there is a strong vegetated belt of trees immediately south of the site which, based on planning judgement, is considered that the site is an important visual break in the developed appearance of the landscape at this location.

85. The fourth and final step of the exceptions test of Policy CTY 8 requires consideration to be given as to whether the proposal meets other planning and environmental requirements.
86. These matters are addressed in the assessments detailed below.

Integration and Design of Buildings in the Countryside

87. Turning then to policy CTY 13, and taking into account the topography of the application site, the established mature vegetation on at three boundaries and in the backdrop and orientation and position of the neighbouring buildings it is considered that a dwelling could be sited and designed so as not to appear as a prominent feature in the surrounding landscape.
88. It is noted that some of the hedgerow removal would be required to be removed to achieve the visibility splays and ensure safe access to and from the application site, however a suitable degree of enclosure remains.
89. It is acknowledged that new landscaping would be required partly behind visibility splays along the south, the western and eastern boundaries remain intact and there is only a small portion on the northern boundary that would require additional planting. It is not considered that the proposal would rely primarily on new landscaping for the purposes of integration.
90. An indicative position for the proposed vehicular access has been shown. It is considered that the application site could accommodate a driveway which would not be largely sweeping in nature.
91. Taking the existing ground levels/topography of the application site into account, it is not considered that there would be a need for large scale excavation /cut and fill or retaining walls. The level changes could be incorporated into the design of the building.
92. It is therefore considered that any ancillary works could be satisfactorily integrated with their surroundings with the specific detail considered further at the Reserved Matters stage.
93. As confirmed by Q20 of the submitted P1 Form, the application does not pertain to a dwelling on a farm (Policy CTY 10). Therefore, criterion (g) is not applicable.
94. For the reasons outlined, the proposal complies with the requirements of policy CTY 13.

Rural Character

95. Turning to policy CTY 14, in terms of criteria (a), as detailed above it is considered that the proposal would not be a prominent feature in the

landscape.

96. In terms of criteria (b) + (d), it is contended that the proposal is not in compliance Policy CTY 14 in that it would if permitted result in a suburban style build-up of development when viewed with existing buildings and the addition of ribbon development along the Yewtree Road frontage.
97. The buildings associated with 7 Yewtree Hill Road are located to the west of the proposed site. It is noted the property further west is facing onto Glen Road. To the east is buildings associated with number 8, a single storey dwelling and garage which are also served by an access onto Yewtree Hill Road with further dwellings at 10 and 12 Yewtree Hill Road fronting onto a laneway.
98. These building are not associated with the Yewtree Hill Road frontage for the reasons detailed above and the closest building on the same side of the road as the site with a frontage at 1 Yewtree Hill Road is too distant to be considered part of the existing frontage.
99. As a consequence to place a dwelling on this site would extend a ribbon from development on Glen Road onto Yewtree Hill Road and harm the rural character of the area.
100. In terms of criteria (c), for the reasons considered under Policy CTY 8 it is also contended the proposal would respect the traditional pattern of settlement exhibited within the area.
101. In terms of criteria (e), it is considered that the impact of ancillary works on their own would not damage rural character.
102. It is considered that the proposal would have a detrimental impact on the rural character of the area and policy tests (b), (c) and (d) associated with Policy CTY 14 are not met.

Development Relying on Non-Mains Sewerage

103. In terms of policy CTY 16, Q18 the P1 form states that the proposed method of sewage disposal is by a septic tank.
104. Water Management Unit and Environmental Health have both been consulted and have raised no objection in principle to the proposal. Environmental Health requested at the subsequent planning stage the applicant shall provide a detailed site plan which includes the location of the proposed dwelling, the septic tank/biodisc and the area of subsoil irrigation for the disposal of effluent.
105. Based on an assessment of the detail and the advice received, it is considered that the proposal will not create or add to a pollution problem. The policy tests associated with Policy CTY 16 are met.

Access, Movement and Parking

106. Detail associated with the application indicates a new access is proposed from the Yewtree Hill Road. DfI Roads have been consulted on the application and have raised no objections and provided conditions to amended drawing 01A, 02A & 03A.
107. Taking the above into account, and having regard to the advice of DfI Roads it is accepted that the requirements of policy AMP 2 of PPS 2 Access, Movement and Parking are met and that the access arrangements can be provided in accordance with published standards in DCAN 15.
108. It is therefore accepted that the proposal complies with the SPPS and PPS 3 in that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic.

Natural Heritage

109. The application site forms part of an agricultural field. The application site lies in the open countryside.
110. A biodiversity checklist has been supplied by Kerry Leonard Sterna Environmental Ltd in support of the application. There are no buildings within the application site and therefore no demolition would be required to accommodate the proposed development.
111. The Ecological Statement and supplemental notes received 17th October 2022 have been taken into account by NIEA Natural Environment Division and standing advice applied. The content of the statement has also been checked against the standing advice and the officer has no reason to disagree with the finding of the report.
112. There will be no significant vegetation being removed. Taking the above into account, it is accepted that the proposal would not result in demonstrable harm being caused to any features of natural heritage importance and as such the requirements of policy NH1 and NH5 of PPS 2 are considered to be met.
113. It is considered the proposal complies with the SPPS and PPS 2 in that the proposal would not have a negative impact on any natural heritage features.

Planning, Archaeology and the Built Heritage

114. Historic Environment Division (Historic Monuments) are consulted on the basis that there is a known built heritage constraint. They are content that the proposal satisfies the policy requirements of policy BH4 of PPS 6, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. The Council has no reason to disagree with this advice.

Conclusions

115. Following an assessment of the application it is considered the proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
116. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the application site is not located within a small gap within an otherwise substantial and continuously built up frontage which meets other planning and environmental requirements and if permitted would add to a ribbon of development along Yewtree Hill Road and is considered an important visual break.
117. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 14 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposal would if permitted result in a suburban style build-up of development when viewed with existing buildings, would not respect the traditional pattern of settlement exhibited in the area and would add to a ribbon of development along Yewtree Hill Road

Recommendations

118. It is recommended that planning permission is refused.

Refusal Reasons

119. The following refusal reasons are recommended:
- The proposal has been assessment against all relevant material planning and environmental considerations and it is considered to be contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

- The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the application site is not located within a small gap within an otherwise substantial and continuously built up frontage which meets other planning and environmental requirements and if permitted would add to a ribbon of development along Yewtree Hill Road.

- The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 14 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposal would if permitted result in a suburban style build up of development when viewed with existing buildings, would not respect the traditional pattern of settlement exhibited in the area and would add to a ribbon of development along Yewtree Hill Road



Planning Committee

03 April 2023

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 2 – Statutory Performance Indicators – February 2023

Background and Key Issues:

Background

1. The Planning Act (Northern Ireland) 2011 sets out the legislative framework for development management in NI and provides that, from 1 April 2015, Councils now largely have responsibility for this planning functions.
2. The Department continues to have responsibility for the provision and publication of official statistics relating to the overall development management function, including enforcement. The quarterly and annual reports provide the Northern Ireland headline results split by District Council. This data provides Councils with information on their own performance in order to meet their own reporting obligations under the Local Government Act (Northern Ireland) 2014.

Key Issues

1. The Department for Infrastructure has provided the Council with monthly monitoring information against the three statutory indicators. A sheet is attached (**see Appendix**) summarising the monthly position for each indicator for the month of February 2023. This is the second set of monthly data produced since transfer to the new planning system.

2. This data is invalidated management information. The data has been provided for internal monitoring purposes only. They are not validated official statistics and should not be publically quoted as such.
3. Members will note that the performance against the statutory target for local applications for February 2023 was 36 weeks with performance year to date noted to be 31.4 weeks. The ability to perform against the local target continues to be impacted by the introduction of the new planning portal and the issues in terms of the problems with the roll out of the software are well documented. The ability to manage workflows is still being hampered by an absence of management information report from the new portal. Enduring problems with our ability to have consultations returned on time and decisions issues on a timely basis are being addressed by the Department and a programme of work to remove the remaining software problems are programmed over the next two months. The resolution of these issues will allow the Unit to return to better performance, more aligned with the statutory target.
4. Performance in relation to major applications for February 2023 was 104.0 weeks with performance year to date noted to be 97.6 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 this month. There has been no opportunity to perform against the statutory target for major applications this month due to issues with returning consultation responses within the required period.

Recommendation:

It is recommended that the Committee notes the information.

Finance and Resource Implications:

There are no finance or resource implications.

Screening and Impact Assessment

1. Equality and Good Relations

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

If no, please provide explanation/rationale

This is a report outlining progress against statutory targets and EQIA is not required.

If yes, what was the outcome?:

Option 1
Screen out

N/A

Option 2

N/A

Option 3

N/A

without mitigation

Screen out with mitigation

Screen in for a full EQIA

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

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?

 No

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

 No

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

This is a report outlining progress against statutory targets and RNIA is not required.

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

SUBJECT TO PLANNING APPROVAL:

 No

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

APPENDICES:

APPENDIX 2 – Statutory Performance Indicators – February 2023

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

 No

If Yes, please insert date:

Statutory targets monthly update - February 2023(unvalidated management information)
Lisburn and Castlereagh

	Major applications (target of 30 weeks)				Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 30 weeks	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 15 weeks	Number opened	Number brought to conclusion ³	"70%" conclusion time ³	% of cases concluded within 39 weeks
April	0	1	83.6	0.0%	73	78	18.0	47.4%	23	23	13.8	95.7%
May	0	-	0.0	0.0%	73	70	23.8	35.7%	26	23	25.6	73.9%
June	1	-	0.0	0.0%	75	74	29.6	36.5%	15	26	41.0	69.2%
July	0	-	0.0	0.0%	51	63	33.4	25.4%	27	19	15.4	94.7%
August	3	-	0.0	0.0%	68	67	39.8	11.9%	31	12	8.0	83.3%
September	0	-	0.0	0.0%	72	70	35.6	24.3%	24	23	24.4	95.7%
October	2	4	177.4	0.0%	80	84	23.6	26.2%	22	18	25.4	83.3%
November	0	1	33.0	0.0%	64	63	38.6	23.8%	17			
December	2	-	0.0	0.0%	56	12	67.0	25.0%	17			
January	1	1	24.2	100.0%	78	65	27.4	27.7%	23			
February	0	1	104.0	0.0%	49	63	36.0	11.1%	21			
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0			
Year to date	9	8	97.6	12.5%	739	709	31.4	27.5%	246			

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.



Planning Committee

03 April 2023

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 3 – Appeal Decision – LA05/2019/0118/F

Background and Key Issues:

Background

1. An application for stables, garage and store previously approved under planning reference S/2003/0136/F at 50 Kesh Road, Maze, Lisburn was refused planning permission on 30 November 2020.
2. An appeal was lodged with the Planning Appeals Commission on 18 March 2021. The procedure followed in this instance was written representations with Commissioner site visit on 11 November 2022.
3. The main issue in the appeal was whether the proposed development would unduly affect the amenity of neighbouring residents living in neighbouring properties by reason of noise, odour and pests.
4. A decision received on 17 February 2023 indicated that the appeal was allowed and planning permission granted.

Key Issues

1. The Commissioner's consideration of the case is set out at paragraphs 5.1 – 5.16 of the Decision Report.

2. At paragraph 5.4, the Commissioner notes that the appeal site is in the countryside and that the Council failed to engage with Planning Policy Statement 21. The Commission do not explain the reason why the Council needed to engage with the requirements of PPS21 but their comments are noted for future reference. There is no specific policy that deals with this type of proposal and policy CTY 1 does not direct the reader to the relevant policy in PPS 7 and the correct policy was engaged.
3. At paragraph 5.6, the Commission confirms, based on the evidence before them, that they are satisfied that the proposed stables will be used for personal hobby purposes. The Council had no reason to challenge this assessment.
4. Reference is made at paragraph 5.9 to disagreement between parties regarding the reasoning for the imposition of a 75 metre separation distance to safeguard the amenity of adjacent occupiers. The Council accepted that this distance of separation is normally applied to agricultural buildings used for housing livestock as part of intensive farming operations. However there was still an expectation on our part that, given the proximity of the proposed development to neighbouring properties, that the potential impact of keeping horses on the amenity of neighbouring dwellings be considered.
5. Whilst the Commissioner notes that the Council requested odour/air modelling reports to allay concerns in relation to noise and odour based on the advice of the Environmental Health Unit, the Commissioner was content to make an informed assessment of the impact of the development for the keeping of three horses/ponies in the absence of such reports.
6. The Commissioner's report notes that the appeal site is located within the rural area where low level odour and noise associated with farming activities and keeping of animals is to be expected. Reference is also made to the site being some 44 metres from the M1 motorway where audible and constant background noise from vehicles was observed.
7. With the stables proposed to be housed within a proposed building, the view is expressed that the noise from the animals would be suppressed. Based on observations of the site context and detail of the proposal, the Commissioner concluded that the horses would not generate a level of noise that would in itself be unacceptable in proximity to residential dwellings.
8. The decision provides some useful and helpful guidance in making these types of decision in terms of the advice and assistance offered by the Environmental Health Unit and the judgement to be exercised in terms of considering impact on amenity. This may also require some adjustment to the practice of consultation.

Recommendation:

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

Finance and Resource Implications:

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

Screening and Impact Assessment

1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy?

If no, please provide explanation/rationale

This is a report updating the committee on a decision by the PAC and EQIA is not required.

If yes, what was the outcome?:

Option 1 Screen out without mitigation	<input type="text" value="N/A"/>	Option 2 Screen out with mitigation	<input type="text" value="N/A"/>	Option 3 Screen in for a full EQIA	<input type="text" value="N/A"/>
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Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?	<input type="text" value="No"/>	Has a Rural Needs Impact Assessment (RNIA) template been completed?	<input type="text" value="No"/>
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If no, please given explanation/rationale for why it was not considered necessary:

This is a report updating the committee on a decision by the PAC and RNIA is not required.

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

SUBJECT TO PLANNING APPROVAL:

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

APPENDICES:**APPENDIX 3 – Appeal Decision – LA05/2019/0118/F****HAS IT BEEN SUBJECT TO CALL IN TO DATE?****No****If Yes, please insert date:**



Appeal Decision

4th Floor
92 Ann Street
BELFAST
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T: 028 9024 4710
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Appeal Reference:	2020/A0159
Appeal by:	Mrs Mavis Carberry
Appeal against:	The refusal of full planning permission
Proposed Development:	Proposed stables, garage and store previously approved under planning reference S/2003/0136/F
Location:	50 Kesh Road, Maze, Lisburn
Planning Authority:	Lisburn and Castlereagh City Council
Application Reference:	LA05/2019/0118/F
Procedure:	Written representations and Commissioner's site visit on 11 November 2022
Decision by:	The Commission, 17 February 2023

The Commission has considered the report by Commissioner Kevin Gillespie and accepts his analysis of the issues and recommendation that the appeal should succeed. The Commission agrees that the reason for refusal has not been sustained.

Decision – the appeal is allowed and full planning permission is granted, subject to the following conditions:

1. The building shall be orientated so that the 3No. external stable doors shall front onto the northern boundary of the appeal site.
2. The development hereby permitted shall be used solely for purposes ancillary to the domestic use of the dwelling known as No. 50 Kesh Road, Lisburn and shall be limited to the keeping of a maximum number of 3 No. horses or ponies.
3. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

This decision approves the following drawings:

Drawing Number	Title	Scale	Date Received by the Council
01A	Site Location	1:2500	12 th March 2019
02A	Site Layout	1:500	13 th March 2019
03A	Floor plan, section and elevations	1:100	12 th March 2019

ANDREA KELLS
Chief Commissioner

PLANNING APPEALS COMMISSION

**THE PLANNING ACT (NORTHERN IRELAND) 2011
SECTION 58**

**Appeal by
Mrs Mavis Carberry**
**against the refusal of full planning permission for proposed stables, garage and
store previously approved under planning reference S/2003/0136/F**
at
50 Kesh Road, Maze, Lisburn

**Report
by
Commissioner Kevin Gillespie**

Planning Authority Reference: LA05/2019/0118/F

Procedure: Written Representations

Commissioner's Site Visit: 11th November 2022

Report Date: 10th February 2023

1.0 **BACKGROUND**

1.1 Lisburn and Castlereagh City Council received a planning application on 7th February 2019 and advertised it in the local press on 15th March 2019. By notice dated 30th November 2020 the Council refused planning permission giving the following reason:

1. **The proposal is considered to be contrary to the SPPS and Policy EXT 1 (b) of the Addendum to Planning Policy Statement 7 in that the proposal will unduly affect the amenity levels of neighbouring properties by virtue of undue noise, odours and pests.**

1.2 The Commission received the appeal on 18th March 2021 and advertised it in the local press on 12th April 2021. There were no representations from any third parties at either the planning application or appeal stage.

2.0 **SITE AND SURROUNDINGS**

2.1 The appeal site which is located at No. 50 Kesh Road, Lisburn comprises a two storey detached dwelling with a detached garage to its east, lawned/landscaped gardens to its west and a field to the north of the dwelling. A chicken coup is sited to the north-east of the dwelling. Access to the appeal site is provided by a stoned road leading directly from Kesh Road and then via a single lane tarmacked drive framed by brick pillars and which is lined on both sides by mature trees of some 6 – 8 metres in height.

2.2 The host field is broadly rectangular in form and is generally flat. It is devoid of any buildings. The field is accessed via a pedestrian access gate to the north of the dwelling.

2.3 The appeal site is bounded by post and wire fencing along its northern boundary, mature trees and bushes along its eastern boundary, post and wire fence and mature trees along its western boundary and post and wire fencing, timber boarded fencing and mature trees and hedging along its southern boundary.

2.4 A number of dwellings comprising Nos. 52, 54 and 54a Kesh Road are located within the vicinity of the appeal site. Part of the appeal site's southern boundary forms the property boundary with No. 56 Kesh Road which is sited to the south-east of the appeal site. To the north and east of the appeal site lies agricultural land. Beyond Nos. 54, 54a and 56 Kesh Road to the south of the appeal site lies the M1 motorway.

3.0 **PLANNING AUTHORITY'S CASE**

3.1 Policy EXT 1 'Residential Extensions and Alterations' of the Addendum to Planning Policy Statement 7 (APPS 7) outlines that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

- A - The scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;

B - The proposal does not unduly affect the privacy or amenity of neighbouring residents;

C - The proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality; and

D - Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

The guidance set out in Annex A will be taken into account when assessing proposals against the above criteria.

3.2 It is outlined within Annex A that;

- Buildings within the residential curtilage, such as, garages, sheds and greenhouses can often require as much care in siting and design as works to the existing residential property. They should be subordinate in scale and similar in style to the existing property, taking account of materials, the local character and the level of visibility of the building from surrounding views. The use of false pitches should be avoided as these often detract from the appearance of these buildings, particularly when viewed from the side.
- In the countryside, ancillary buildings should be designed as part of the overall layout to result in an integrated rural group of buildings.

3.3 Lisburn & Castlereagh City Council Environmental Health Unit (EHU) within their initial consultation response outlined that the proposed development would be within 75m of a number of existing dwellings which are not associated with the applicant. It also outlined that the site for planning approval LA05/2016/0724/O is also partly within 75 metres. This application was refused planning permission and was not the subject of an appeal to the Commission. It is advised that a minimum separation distance of 75 metres from the existing dwellings and the proposed development should be applied. Therefore, it is EHU's view that the proposed development is unsuitable as there would be a loss in amenity due to noise, odour and rodents. This was on the basis that the drawings indicated the keeping of animals in the building by including 3 No. stables. The substantial proposed building measures some 21.43 metres x 10.5 metres and would be approximately 1 – 2 metres away from the third party amenity space of No. 56 Kesh Road.

3.4 The agent was made aware of EHU's concerns and was provided with an opportunity to re-site the proposed development. The agent responded stating that the 75 metre rule was for agricultural permitted development and that this was for a domestic garage, store and stables on the footprint of what was previously approved, historically.

3.5 EHU noted the agent's comments. They stated further that this type of development has the potential to cause public health nuisance due to odour, noise and pests. It was in turn recommended that a suitable separation distance is provided between

the proposed development and neighbouring residential properties not associated with the applicant. The agent did not respond further.

- 3.6 The Council reviewed the current application and the previously approved application under S/2003/0136/F. The design of the current proposal is identical to that initially found to be unacceptable under S/2003/0136/F in relation to the scale of the building and its proximity to the neighbouring property. During the processing of the application, the scheme was subsequently reduced in size/scale and re-sited away from the neighbouring property. S/2003/0136/F was subsequently approved following the amendments. However, this approval was valid until 24th February 2010 but was not commenced and has subsequently lapsed. The EHU minimum distances in relation to such developments (from 3rd party dwellings) was 20 metres under S/2003/0136/F but that guidance over time has increased.
- 3.7 The approved development had a footprint of 150 square metres and was sited 23 metres away from the rear of No. 56 Kesh Road. This contrasts with the current proposal which has a footprint of 220.5 square metres. It is closer to No. 56 Kesh Road being only 20.5 metres away.
- 3.8 The current application seeks a proposal similar in size and scale to what was deemed unacceptable within S/2003/0136/F. It is also noted that it seeks to house animals within it (horses). The floorplan of the building illustrates three separate stables. No supporting information in the form of horse passports etc. has been provided in relation to horse/pony ownership. The agent was made aware that current EHU guidelines require/request that such developments are now sited at least 75 metres away from neighbouring 3rd party dwellings. To re-site this proposal this distance away from the neighbouring dwelling would push it into the floodplain (1 in 10 year fluvial floodplain). The agent was requested to consider reducing the scale of the development and to re-site it as far as possible from the neighbouring property with the stabling element facing towards the countryside (away from the neighbouring property) but not within the floodplain. No response to this request was received from the agent.
- 3.9 No information/evidence was provided by the agent to refute the concerns raised by EHU in the form of odour/air modelling reports etc. The development would be 21 metres away from the rear of No. 56 Kesh Road to the south, well within the 75 metre buffer as requested by EHU and within 1 – 2 metres of their private amenity space. It is also noted that the proposal could be sited so that the doors of the proposed 3 stables within the building would be facing the adjacent third party dwelling to the south of the site (No. 56) as the drawing does not have a corresponding floor plan to show orientation. The northern boundary of No. 56 Kesh Road, which is adjacent to the proposal, consists of a wooden ranch fence with no in-situ landscaping.
- 3.10 The appellant makes the point that they cannot reference anything in current planning policy where domestic animals for personal use are excluded from being kept in buildings within the curtilage of a dwelling. Paragraph A38 of the Addendum to PPS 7 'Residential extensions and alterations' outlines that 'Residential areas can be sensitive to noise and general disturbance, particularly in the late evening when there is an expectation that surrounding background noise will remain low. An

extension or alteration such as a balcony, roof-terrace or high-level decking can all increase the level of noise and general disturbance experienced by residents of adjacent properties and will be subject to particular scrutiny'.

- 3.11 In this case the development is within 4 metres of the common boundary with No. 56 Kesh Road and adjacent rear amenity space which has no association with the development. Taking into account EHU concerns, the proposed development is considered to have the potential to adversely impact upon the in-situ amenity levels enjoyed by this property by virtue of undue noise, odour and pests.
- 3.12 As no compromise position, evidence or information was provided to ameliorate concerns raised by EHU, the application is contrary to Policy Ext 1 (b) of the addendum to Planning Policy Statement 7 as it would unduly affect the amenity levels of neighbouring residents by virtue of undue noise, odour and pests.
- 3.13 If this appeal is allowed, the following conditions are suggested on a without prejudice basis:
1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
 2. The development hereby permitted shall not be occupied at any time other than for the purposes ancillary to the residential use of the dwelling known as No. 50 Kesh Road, Lisburn.

4.0 APPELLANT'S CASE

- 4.1 The only relevant planning history is S/2003/0136/F – Stables Block at 52a Kesh Road. This was applied for by the appellant on the same site and approved on 1st March 2005, valid until 25th February 2010. This approval was for a similar building sited where this proposal is to be sited. Because of health reasons, the applicant was not in a position to go ahead with the approval.
- 4.2 The red line area of the 2003 planning application was planted out and brought into the curtilage of the dwelling at No. 50 Kesh Road approximately 15 years ago. She has a greenhouse for plants. Over the last few years and because of surgery, the appellant is now in a much more reasonable state of physical health and had decided to go ahead and build the garage, store and stables as she has grandchildren with a keen interest in ponies.
- 4.3 The building will be for domestic use only and will have at most 2 ponies kept within the small area of land she owns. The building is approximately 220 square metres in area, has a ridge height of 5.3 metres and an eaves height of 3.5 metres.
- 4.4 The proposed shed is set back over 20 metres from the nearest neighbour at No. 56 Kesh Road, there are mature trees and hedges between the proposed shed and the neighbours property. The building will be for domestic use only. There have been no objections from neighbours in the surrounding dwellings.
- 4.5 EHU objected on the basis of the proposed shed being for agricultural use and could cause problems in terms of loss of amenity due to noise, odour and pests. The

proposed shed is for domestic use only. If the appellant wished she could keep her ponies in the existing outbuilding to the rear of her dwelling which is a lot closer to neighbouring properties. There is nothing in current planning policy where domestic animals for personal use are excluded from being kept in buildings within the curtilage of the dwelling. In planning application S/2010/0905/F – 3 stables on land 30 metres east of the applicant's property at 39 Creevy Road, Lisburn, the Planning Department would not accept the location of the stables which was outside the curtilage of the existing dwelling. After the proposal was amended, the stables were approved within 5 metres of the applicant's house.

- 4.6 Planning policy has been interpreted since 2008; horses and ponies are considered domestic animals and not agriculture; stables for domestic ponies must be associated with an existing dwelling unless the applicant intends to run a livery business. In that case, it will not be a householder application.
- 4.7 Planning policy allows in certain circumstances large buildings for domestic use to be built on large plots associated with a dwelling where the building meets all the criteria for lawful development. This does not preclude the keeping of domestic pets such as ponies or horses; the building must not be used as a commercial building or for agricultural purposes. The proposed building does not meet the requirements for lawful development mainly due to the height of the building as greater than 4 metres.
- 4.8 The application if approved could be conditioned to prevent the use being anything other than domestic.
- 4.9 The addendum to PPS 7 referred to by the Planning Department is mainly to protect built up areas in towns and villages. It can be applied in this case. There is no proposal to extend or alter the dwelling but to build a shed on a large site. The Department's statement goes on to state that under the planning policy the proposal should not unduly affect the privacy or amenity of the neighbouring residents – the building is approximately 22 metres from the nearest dwelling, in this case there is only one site close to the proposal, the shed is on the boundary of the adjacent large field and not on the boundary of any dwellings. The shed is 3 metres from the nearest hedge and the siting was chosen as the building will be screened by the existing mature trees and hedging. The building will not overshadow or overlook any of the dwellings in the area.
- 4.10 Part 1 – Development within the curtilage of a dwelling house – Class D of the Planning (General Permitted Development) Order (Northern Ireland) 2015 permits the development where the building floor area is up to 50% of the total curtilage excluding any dwelling house, the building cannot be above 4 metres in height and the eaves height would not exceed 2.5 metres within 2 metres of the boundary. Although this proposal does not meet permitted development as the proposed ridge height is 5.3 metres, the building is well below the aforementioned permitted floor area.
- 4.11 If EHU were to apply their thinking to any application for a garage, store or shed, then no-one would get planning permission within 75 metres of another dwelling.

5.0 CONSIDERATION

Main Issue

- 5.1 The main issue in this appeal is whether the proposed development would unduly affect the amenity levels of neighbouring properties by virtue of undue noise, odours and pests.
- 5.2 Section 45(1) of the Planning Act (NI) 2011 (the Act) requires the Commission, in dealing with an appeal, to have regard to the local development plan, 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. The adopted Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful by the Court of Appeal on 18th May 2017. As a result of this, the Lisburn Area Plan 2001 (LAP) operates as the local development plan (LDP) for the area where the appeal site is located with the draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, remaining a material consideration. In the LAP, the appeal site is located in the countryside and outside of any settlement limit, green belt or countryside policy area defined in the plan. In dBMAP, the site lies in the Green Belt. The rural policies in both plans are now outdated, having been overtaken by a succession of regional policies for rural development and determining weight cannot be attached to them. There are no other provisions in the plans that are material to the determination of the appeal.
- 5.3 The Strategic Planning Policy Statement 'Planning for Sustainable Development for Northern Ireland' (SPPS) sets out the transitional arrangements that will operate until such times as the local Council adopts a Plan Strategy for the whole of the Council area. As no Plan Strategy has been adopted for the Lisburn and Castlereagh City Council area, both the SPPS and other regional policies apply.
- 5.4 Even though the appeal site is in the countryside, the Council have limited their consideration to Policy EXT 1 of the Addendum to Planning Policy Statement 7 'Residential Extensions and Alterations'. They have failed to engage with Planning Policy Statement 21 'Sustainable development in the Countryside' (PPS 21) which deals with development in the countryside.
- 5.5 Policy EXT 1 of APPS 7 states that planning permission will be granted for a proposal to extend or alter a residential property where a number of criteria are met. The headnote to Policy EXT 1 of APPS 7 goes on to refer to guidance set out in Annex A which it states will be taken into account when assessing a proposal against the aforementioned criteria. The Council contend that the proposal would only offend criterion (b) of Policy EXT 1 as the stabling of a maximum of 3 No. horses/ponies, would by reason of both its close proximity and the positioning of the stable doors unduly impact upon the amenity of No. 56 Kesh Road as a result of undue noise, smells and pests.
- 5.6 From the evidence before me, I am satisfied that the proposed stables will be used for personal hobby purposes. It is also clear from the evidence that the Council consider the appeal site as forming part of the residential curtilage of No. 50 Kesh Road.

- 5.7 The proposed development would be located adjacent to the southern boundary of the appeal site which lies to the rear of No. 56 Kesh Road. The floorplan of the proposed development details a garage area and store, oil tank, dog house and the provision of 3 No. stables. Each stable would each have an internal access door to provide access to them from within the building and also an external access door. It is unclear from the submitted plans which elevation would house the proposed external stable doors to inform their orientation within the appeal site. The appellant did not disagree with this. A planning condition could secure the orientation of the proposed building within the appeal site.
- 5.8 Section A38 of Annex A of APPS 7 'Noise and General Disturbance' states that residential areas can be sensitive to noise and general disturbance, particularly in the late evening when there is an expectation that surrounding background noise will remain low.
- 5.9 There is disagreement between the parties regarding the reasoning for the imposition of a 75m separation distance to safeguard the amenity of adjacent occupiers. Whilst the Council is entitled to consider the EHU consultation response, I find it surprising that the Council has not provided any detail or justification for the separation distance given the domestic nature of the appeal proposal. Furthermore, they did not provide details on the nature of their objections regarding noise, odour and vermin. I note that the Council requested odour/air modelling reports to allay their concerns but that the appellant did not provide such reports. Notwithstanding this, I am of the opinion that I can make an informed assessment of the impact of the proposed development for three horses/ponies in the absence of such reports. In doing so, I am entitled to consider all of the relevant characteristics of the area.
- 5.10 The appeal site is located in the rural area where low level odour and noise associated with farming activities and keeping animals is to be expected. In addition, it is located some 44m from the M1 motorway where I witnessed that there is already audible and constant background noise from the vehicles using the motorway when in the vicinity of the appeal site and adjacent dwellings. Consequently, the area already experiences constant background noise levels which I consider would be over and above that which would be experienced in a more remote rural location.
- 5.11 There was no substantive evidence from the Council to justify their position in relation to noise nuisance or in respect of the nature and type of noise likely to emanate from within the building. As the stables are to be housed inside the proposed building, I consider that much of the noise from the horses would be suppressed. If the appeal building was orientated so that the 3 No. external stable doors open outwards into the wider field and not onto the southern boundary of the appeal site, this would assist with reducing noise experienced within the rear garden of No. 56 Kesh Road. Notwithstanding this, I do not however consider that three horses would generate a level of noise that, in itself, would be unacceptable in proximity to residential dwellings.
- 5.12 Taking account of the above, I am therefore satisfied that the stabling of 3 No. horses or ponies in this vicinity would not give rise to noise levels that would have an unacceptable adverse impact on the amenities of the occupiers of No. 56 Kesh Road.

- 5.13 There was no substantive evidence from the Council to justify their position on odour. They did not indicate what type and where from the odour would emanate. In this evidential context and on-site observations that some odour should be expected in a rural location, I consider that any odour that might emanate from the building could be mitigated by the orientation of the stable doors away from the southern boundary of the appeal site such that odour would not have an adverse impact on the amenities of No. 56 Kesh Road.
- 5.14 Again, the Council have presented no substantive evidence to justify their objection in respect of the type or number of pests they have concerns about. I consider it unlikely that the stabling of 3 No. horses or ponies would give rise to increased levels of vermin over and above what could reasonably be expected in a rural setting. I am therefore not persuaded that the appeal development would attract pests to the extent that there would be an adverse impact on the residential amenity of No. 56 Kesh Road.
- 5.15 I therefore conclude that subject to the imposition of conditions as referred to above there would be no unacceptable adverse impacts resulting from the proposed development that would unduly affect the amenity levels of neighbouring properties by virtue of undue noise, odours and pests. Given the particular evidential context before me, the Council has not sustained its sole reason for refusal.
- 5.16 As I have concluded in favour of the appellant, I need not consider other arguments presented including the proposed relocation of the appeal building.

6.0 **RECOMMENDATION**

- 6.1 I recommend to the Commission that the appeal is allowed subject to the following conditions:
1. The building shall be orientated so that the 3No. external stable doors shall front onto the northern boundary of the appeal site.
 2. The development hereby permitted shall be used solely for purposes ancillary to the domestic use of the dwelling known as No. 50 Kesh Road, Lisburn and shall be limited to the keeping of a maximum number of 3 No. horses or ponies.
 3. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
- 6.2 This recommendation relates to the following drawings:-

Drawing Number	Title	Scale	Date Received by the Council
01A	Site Location	1:2500	12 th March 2019
02A	Site Layout	1:500	13 th March 2019
03A	Floor plan, section and elevations	1:100	12 th March 2019

List of Documents**Planning Authority:-****“A1” Lisburn and Castlereagh City Council -
Statement of Case****“A2” Lisburn and Castlereagh City Council -
Rebuttal Statement****Appellant(s):-****“B1” P J Design - Statement of Case****“B2” P J Design - Rebuttal Statement**



Planning Committee

3 April 2023

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 4 – Misrepresentation of Information in support of planning applications for anaerobic digesters and agricultural livestock houses

Background and Key Issues:

Background

1. An issue is identified by the Water Management Unit of the Northern Ireland Environment Agency (NIEA) that highlights that technical information submitted in support of planning applications specific to the spreading of nutrient on land for anaerobic digesters and agricultural livestock houses is misrepresented.

Key Issues

2. In a follow up letter dated 27 February 2023, the Acting Director for Regional Planning Governance & Legislation confirms that the Department for infrastructure endorses the points raised by NIEA in correspondence to the Council of 7 February 2023 (as the statutory consultee in relation to his matter) and supports the control measures now requested by them in the submission of relevant planning applications and associated Nutrient Management Plans (NMP).
3. A copy of this letter is attached for information and reference (**see Appendix**) and it directs officers assessing these types of proposals to what should be included in an NMP. A copy of the link to the relevant website is included as follows:
[Nutrient Management Plan | Department of Agriculture, Environment and Rural Affairs \(daera-ni.gov.uk\)](https://www.daera-ni.gov.uk/nutrient-management-plan)

4. There is now a requirement for the applicant to instruct the analysing laboratory to send soil sample analysis results, together with a covering email, directly to the planning authority for uploading to the Planning Portal.
5. The Department has acknowledged that this is a significant issue for the development management process across the planning system and this requirement places an additional administrative burden in terms of ensuring this information is received early in the processing of the application to avoid any unnecessary delay in the consultation process.
6. The Department encourage Councils to continue to engage with NIEA as appropriate on this matter for any undetermined applications as well as those which have previously been determined in order to decide if there is a material impact on any planning permission granted and consider any appropriate action.
7. There are at least two live cases in this Council area where this updated guidance applies. Officers of the Unit are actively pursuing clarification in respect of the detail of how nutrients arising from the operation of the facilities will be managed.

Recommendation:

It is recommended that Members note the content of the letter from the Director Regional Planning Governance & Legislation and the actions by officers of the service to manage applications both in the system and anticipated in the future.

Finance and Resource Implications:

No Finance or additional resource implications are identified. The additional administrative burden in dealing with these types of applications is noted in the report and highlighted to the relevant teams.

Screening and Impact Assessment

1. Equality and Good Relations

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

If no, please provide explanation/rationale

This is a letter from the Director of Regional Planning Governance & Legislation. No EIQA is required.

If yes, what was the outcome?:

Option 1
Screen out

N/A

Option 2

N/A

Option 3

N/A

without mitigation	<input type="checkbox"/>	Screen out with mitigation	<input type="checkbox"/>	Screen in for a full EQIA	<input type="checkbox"/>
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Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?	<input type="checkbox" value="No"/>	Has a Rural Needs Impact Assessment (RNIA) template been completed?	<input type="checkbox" value="No"/>
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If no, please give explanation/rationale for why it was not considered necessary:

This is a letter from the Director of Regional Planning Governance & Legislation. No RNIA is required.

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

SUBJECT TO PLANNING APPROVAL:

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

APPENDICES:

APPENDIX 4 – Letter from Director of Regional Planning Governance & Legislation in relation to the Misrepresentation of Information in support of planning applications for anaerobic digesters and agricultural livestock houses

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

If Yes, please insert date:



Department for

Infrastructure

An Roinn

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Deapirtment fur

Infrastructurewww.infrastructure-ni.gov.uk

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Regional Planning Governance & Legislation

Heads of Planning (Council)

Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB
Tel: 0300 200 7830

Email: kathryn.mcferran@infrastructure-ni.gov.uk
julie.maroadi@infrastructure-ni.gov.uk

Your reference:
Our reference:

27February 2023

Dear Colleagues

MISREPRESENTATION OF INFORMATION SUBMITTED TO SUPPORT PLANNING APPLICATIONS FOR ANAEROBIC DIGESTERS AND AGRICUTURAL LIVESTOCK HOUSES

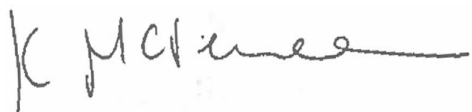
You will be aware of the issue (above) which was brought to your attention by DAERA officials in NIEA, in correspondence to you in early November 2022 and more recently on 7 February 2023.

I wish to advise that the Department for Infrastructure endorses the points raised by NIEA in their correspondence of 7 February 2023 (as the statutory consultee in relation to this matter) and supports the control measures now requested by them in the submission of relevant planning applications and associated Nutrient Management Plans (NMP). This includes that all NMPs meet the requirements set out in the following link: [Nutrient Management Plan | Department of Agriculture, Environment and Rural Affairs \(daera-ni.gov.uk\)](http://daera-ni.gov.uk) including the requirement for the applicant to instruct the analysing laboratory to send soil sample analysis results, together with a covering e-mail, directly to the planning authority for upload to the Planning Portal.

As you will acknowledge, this is a significant issue for the development management process across the planning system and I would further suggest that councils (as the responsible planning authorities for their respective applications) continue to engage with NIEA as appropriate on this matter for any undetermined applications, as well as those which have previously been determined (in order to decide if there is a material impact on any planning permission granted and consider any appropriate action).

The Department shall remain engaged with NIEA on this issue going forward.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K McFerran', written over a light grey rectangular background.

KATHRYN McFERRAN
(Acting) Director

Cc Council Chief Executives



Planning Committee

03 April 2023

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 5 – Planning Fraud Risk - NIAO

Background and Key Issues:

Background

1. In an email to all Councils dated 02 March 2023, the Northern Ireland Audit Office (NIAO) offer their latest guidance in respect of fraud risk and the mitigating actions that should be employed as good practice in the operation of the planning functions. .
2. It follows on from a previous publication on fraud risk for the operation of Council functions which made reference to the risk for fraud to occur in the operation of the planning function.
3. It also highlights the role of internal audit in organisations as having a key role in providing assurance over the design and operation of the controls put in place by management across the planning process.

Key Issues

1. The document provides examples of where and how the planning system is susceptible to potential fraud and corruption.
2. The purpose of this short guide is to raise awareness across local government about what planning fraud might look like, the conditions that might give rise to planning fraud risks, and the controls that can be put in place to combat the risks.

3. It is highlighted that the guide is relevant to the following stakeholders:

- Councillors
- Planning Committee Members and
- Any staff who are involved in any way - no matter how small in the planning process.

Recommendation:

It is recommended that Members note the guidance contained in the recently published document by the NIAO.

Finance and Resource Implications:

There are no finance or resource implications associated with the publication of this document but the requirement for controls are noted and that this document offers assistance to internal audit in how they might approach an audit.

Screening and Impact Assessment

1. Equality and Good Relations

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

If no, please provide explanation/rationale

This is a report from the NIAO on Planning Fraud Risks. An EQIA is not required.

If yes, what was the outcome?:

Option 1 Screen out without mitigation	N/A	Option 2 Screen out with mitigation	N/A	Option 3 Screen in for a full EQIA	N/A
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Rationale for outcome/decision (give a brief explanation of any issues identified including mitigation and/or plans for full EQIA or further consultation)

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?

No

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

No

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

This is a report from the NIAO on Planning Fraud Risks. An RNIA is not required.

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

SUBJECT TO PLANNING APPROVAL:

No

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

APPENDICES:

APPENDIX 5 – Planning Fraud Risks - NIAO

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

Yes/No

If Yes, please insert date:

Planning Fraud Risks



March 2023



Northern Ireland
Audit Office



Planning Fraud Risks

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Introduction

What is planning fraud?

The planning system exists to ensure, amongst other things, that the development of land is managed in the public interest. It aims to direct and control the type and volume of development that occurs, in order to ensure the sustainable creation of places in which people want to live, work and invest.

However, the planning system is susceptible to potential fraud and corruption. For example:

- developers or individuals wishing to advance their own interests may attempt to influence planning decisions;
- planning applicants may make false or misleading statements in planning applications, or provide false supporting documentation;
- planning officials and decision-makers may manipulate the planning process to the advantage of themselves or a third party; or
- planning officials and decision-makers may be subject to undue influence from third parties in relation to planning decisions.

Overview of the planning system in Northern Ireland

Under the Planning Act (NI) 2011, responsibility for delivering the main operational planning functions passed from a central government department to **local councils** in April 2015. These functions include:

- development plans – creating a plan that sets out a vision of how the council area should look in the future, by deciding what type and scale of development should be encouraged and where it should be located;
- development management – determining whether planning applications for particular development proposals should be approved or refused; and
- planning enforcement – investigating alleged breaches of planning control and determining what action should be taken.

The **Department for Infrastructure** retains responsibility for planning legislation, regional policy, oversight of the development plan process, and making decisions in relation to a small number of regionally significant planning applications and called in applications.

A key element of the planning process is the role of **statutory consultees**. Planning authorities may not have the necessary in-house expertise to assess some technical or specialist aspects of planning applications. Planning legislation therefore identifies a number of organisations that must be consulted in certain circumstances. They are the Department for Infrastructure, the Department of Agriculture, Environment and Rural Affairs, the Department for Communities, the Department for the Economy, NI Water, the Health and Safety Executive for Northern Ireland, Northern Ireland Housing Executive and local councils (for applications which are determined by the Department for Infrastructure).

Whilst this Guide is directed primarily at planning authorities (local councils and the Department for Infrastructure), statutory consultees should also be aware of its content and the key risks and controls that might apply to their role.



“Planning is an inherently high risk area of public service delivery....There is no other part of the public sector which is more open to the possibility of conflicts of interest, collusion and impropriety.”

Source: NI Public Accounts Committee, February 2010

Why produce a guide on planning fraud risks?

In February 2022, the NIAO published a report on Planning in Northern Ireland. Following a series of Public Accounts Committee (PAC) hearings, the PAC published its own report in March 2022. It expressed concerns about the lack of transparency of the planning system and highlighted the importance of making planning decisions “*within a framework of high ethical values*”.

In addition to fraud and corruption risks **within** the planning system, there is also the risk of fraud being committed **against** the planning system. Planning authorities need to be alive to the potential risks from third parties and have controls in place to mitigate those risks.

Purpose of the Guide

The purpose of this short Guide is to raise awareness across local government in NI about what planning fraud might look like, the conditions that might give rise to planning fraud risks, and the controls that can be put in place to combat the risks. It is relevant for councillors, planning committee members and any staff within organisations who are involved in any way, no matter how small, in the planning process.

The Guide will also be useful for auditors reviewing planning arrangements, helping them to see the **warning signs** (or “**red flags**”) of potential fraud. **Internal audit** in organisations have a **key role** in providing assurance over the design and operation of the controls put in place by management across the planning process.



“The planning system lacks transparency, leaves decision-makers ill-equipped to defend themselves against allegations of corruption and contributes to mistrust.”

Source: NI Public Accounts Committee, March 2022



General risks and controls

Fraud Risks/Red Flags	Mitigating Controls
<ul style="list-style-type: none"> • Planning decision-makers may be unclear as to the ethical values expected of them as holders of public office making key decisions. 	<ul style="list-style-type: none"> ✓ Those involved in making planning decisions must be guided by the seven Nolan principles and the additional principles adopted by the NI Assembly (as set out in The Northern Ireland Local Government Code of Conduct for Councillors and the Code of Conduct for Local Government Employees), as well as professional codes of conduct where applicable.
<ul style="list-style-type: none"> • Planning decision-makers may be unclear as to what is acceptable conduct in terms of proper planning decisions. 	<ul style="list-style-type: none"> ✓ Planning authorities must have clear guidance in place, in terms of policies and procedures for the planning process. This guidance must be readily accessible and understood by all those involved in the planning process. ✓ Councillors and planning officials must have a sound understanding of the legal requirements around planning decisions, reinforced through regular awareness training. ✓ Planning authorities should ensure councillors and planning officials receive regular training on probity in decision-making.
<ul style="list-style-type: none"> • Planning decision-makers may be unclear as to the wider ethical and governance framework of the planning authority. 	<ul style="list-style-type: none"> ✓ Planning authorities should have a comprehensive set of complementary policies such as conflicts of interest, gifts and hospitality, anti-fraud and raising concerns. Planning decision-makers must be familiar with these policies and adhere to them.
<ul style="list-style-type: none"> • Lack of transparency may lead to the perception of impropriety. 	<ul style="list-style-type: none"> ✓ The process for arriving at planning decisions must be open, transparent and impartial.
<ul style="list-style-type: none"> • Undocumented meetings may lead to the perception of impropriety. 	<ul style="list-style-type: none"> ✓ Councillors or senior officials involved in pre-application (or other) discussions with third parties should be accompanied by a planning officer who should document the meeting for the case file, noting the issues raised and the advice given.
<ul style="list-style-type: none"> • Lack of clarity and comprehensive documentation around planning decisions may lead to the perception of impropriety or corruption. 	<ul style="list-style-type: none"> ✓ A planning committee's reasons for a planning decision must be clearly documented in the minutes of the meeting, particularly where the decision is contrary to a planning officer's recommendation or to the local development plan. A copy of the minutes must be placed on the planning application file/planning portal. ✓ Decisions contrary to a planning officer's recommendation or the local development plan must be based on sound planning considerations.



General risks and controls

Fraud Risks/Red Flags	Mitigating Controls
<ul style="list-style-type: none"> • Planning authorities may not have a robust system of internal controls in relation to their planning function. 	<ul style="list-style-type: none"> ✓ A robust system of internal controls should be in place, including separation of duties, effective supervision, management oversight and transparent and well documented decisions - see Internal Fraud Risks guide, NIAO, 2022. ✓ Internal controls must be tested regularly to ensure they are operating effectively.
<ul style="list-style-type: none"> • Planning decision-makers may not be provided with adequate and effective training for their role, including fraud awareness training. 	<ul style="list-style-type: none"> ✓ Planning authorities should ensure councillors and planning officials receive appropriate training for their role, both at induction and on an ongoing basis. ✓ Elected representatives should ensure they attend all NILGA-provided training in relation to the Code of Conduct, and any focused training on planning.
<ul style="list-style-type: none"> • Planning decision-makers may be subject to undue influence, either directly or indirectly, e.g., via social media pressure or party political pressure. • Planning decision-makers may be subject to undue influence from third parties in relation to zoning of land in the development plan process. 	<ul style="list-style-type: none"> ✓ Planning authorities should ensure training for councillors and planning officials covers probity in decision-making and raises awareness of the undue influences they may face. ✓ Councillors and planning officials must have a clear understanding that planning decisions must be made in line with relevant planning legislation and guidelines and must be free from undue influences. ✓ Councillors and planning officials should notify their planning authority if they are subject to any direct or indirect undue influence.
<ul style="list-style-type: none"> • There may be no system or process for councillors, officials or third parties to raise concerns about planning activities. 	<ul style="list-style-type: none"> ✓ Planning authorities should have a clear route for those seeking to make a complaint or raise a concern about the planning process and decisions. Complaints and concerns should be appropriately considered and addressed. ✓ Planning authorities should be aware of good practice guidance on effective arrangements for raising concerns – see Raising Concerns: a Good Practice Guide for the NI Public Sector, NIAO, 2020.
<ul style="list-style-type: none"> • Available sanctions may not be imposed in cases where councillors breach the Code of Conduct. 	<ul style="list-style-type: none"> ✓ Meaningful sanctions must be employed as a deterrent against misconduct. The Northern Ireland Local Government Code of Conduct for Councillors details the enforcement procedures and sanctions available to the Northern Ireland Ombudsman, in their capacity as the Northern Ireland Commissioner for Complaints, to address concerns brought to their attention about councillors' conduct.



Elected representatives

Fraud Risks/Red Flags	Mitigating Controls
<ul style="list-style-type: none"> • A councillor/planning committee member may seek to unduly influence a planning official in the proper exercise of their duties. 	<ul style="list-style-type: none"> ✓ Elected representatives must not abuse their position by seeking to bring undue influence to bear on planning officials, in relation to planning decisions. They must recognise and respect the complementary roles of elected representatives and officials in the planning process and adhere to the Local Government Employee and Councillor Working Relationship Protocol.
<ul style="list-style-type: none"> • A councillor/planning committee member may seek to influence another councillor/planning committee member in the proper exercise of their responsibilities. 	<ul style="list-style-type: none"> ✓ Elected representatives making planning decisions must do so in the interests of the council as a whole and not in favour of individual constituents or particular interests. ✓ Political group meetings or discussions must not be used to decide how councillors should vote on a planning application, as all applications must be considered on their own merits and councillors must make their own decisions.
<ul style="list-style-type: none"> • A councillor/planning committee member may be offered, or may request, a bribe to influence a planning decision. (Note: A bribe or inducement can take many forms, e.g., cash, benefits in kind, the promise of votes at election time.) 	<ul style="list-style-type: none"> ✓ There should be a clear commitment from senior levels within the organisation to prevent bribery and corruption, and a clear statement of ethical values. ✓ A proportionate bribery and corruption risk assessment should be carried out and reviewed periodically. ✓ There should be arrangements in place for raising and reinforcing bribery and corruption awareness, as part of wider fraud awareness training. ✓ There must be a clear route for those wishing to raise concerns about actual or potential bribery and corruption. ✓ Particular care must be taken by elected representatives in pre-election periods to avoid any perception of influencing planning decisions in return for votes.
<ul style="list-style-type: none"> • Planning applications submitted by councillors/planning committee members could lead to suspicions of impropriety. 	<ul style="list-style-type: none"> ✓ Councillors must play no part in deliberations/decisions involving their own planning applications. ✓ Councillors in such a position should declare any such interest and leave the meeting when their application is being discussed.
<ul style="list-style-type: none"> • A councillor/planning committee member may manipulate the planning system to the advantage of themselves/family member/friend. 	<ul style="list-style-type: none"> ✓ Councillors must adhere to due council process and not take any part in decision-making following submission of a planning application by themselves, a family member, friend or close associate. ✓ Any such interest should be declared, recorded and appropriately managed.



Elected representatives

Fraud Risks/Red Flags	Mitigating Controls
<ul style="list-style-type: none"> • A councillor/planning committee member may fail to declare an interest in a situation where they could use their public position for direct personal gain (e.g., in relation to land holdings). • A councillor/planning committee member may fail to declare an interest in a situation where they could use their public position for indirect gain (e.g., for the gain of an employer, business associate, family member or friend, or by acting as a planning agent). [Note: Particular risk may attach to planning committee members who have advance knowledge of Local Development Plans and could use this to their own advantage or the advantage of others.] 	<ul style="list-style-type: none"> ✓ Councillors must adhere to The Northern Ireland Local Government Code of Conduct for Councillors. The Code includes guidance on registering and declaring both direct and indirect pecuniary interests. Declared interests must be properly managed. A key consideration is whether a member of the public, with knowledge of the relevant facts, would perceive that the interest would be likely to influence any decision. ✓ Planning authorities should consider publishing their registers of interests in an accessible format, to promote transparency. ✓ Planning authorities should be aware of good practice in managing conflicts of interest - see Conflicts of Interest: a Good Practice Guide, NIAO, 2015.
<ul style="list-style-type: none"> • A councillor/planning committee member could be influenced in their official capacity due to a previous or prospective employment relationship, e.g. with a developer. 	<ul style="list-style-type: none"> ✓ Planning authorities need to be mindful of the “revolving door”. There must be clear guidance around such situations and effective management of any conflicts of interest, actual or perceived (see link to good practice above). ✓ Councillors involved in planning should receive training about the risks of abusing the “revolving door”. ✓ Planning authorities should have an agreed process to decide whether councillors who have employment links, past or present, with developers should be involved in the planning process. Any potential conflicts of interest must be identified and properly managed.
<ul style="list-style-type: none"> • A councillor/planning committee member may be subject to undue influence if they accept generous gifts, hospitality or other benefits from e.g. developers. 	<ul style="list-style-type: none"> ✓ Councillors must ensure they do not accept frequent and/or generous gifts or hospitality, to avoid the reality or perception of undue influence. ✓ Planning authorities must establish clear guidelines/thresholds for the acceptance of gifts and hospitality, in the form of standing orders. ✓ Planning authorities should have a process in place for the declaration and management of gifts and hospitality, and publish their register of gifts and hospitality in an accessible format, to promote transparency. ✓ Planning authorities should consider the appropriate period of tenure for planning committee members, to protect councillors from the reality or perception of undue influence.



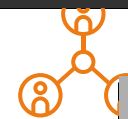
Planning officials

Fraud Risks/Red Flags	Mitigating Controls
<ul style="list-style-type: none"> • A planning official may not have the necessary capability and expertise to recognise key fraud risks within the planning process that they are administering. 	<ul style="list-style-type: none"> ✓ Planning authorities should have clarity about the knowledge and skills required to properly administer the planning system while minimising key fraud risks, and take steps to ensure their planning officials have the necessary capability and expertise, e.g., through recruitment of the right people and provision of an ongoing programme of training and development.
<ul style="list-style-type: none"> • A planning official may be subject to undue influence from an elected representative in the performance of their duties. 	<ul style="list-style-type: none"> ✓ Planning officials must be clear about their own role and that of elected representatives. They should be aware of the Local Government Employee and Councillor Working Relationship Protocol. ✓ Planning authorities must ensure they have robust procedures in place for planning officials who wish to raise concerns about undue influence from elected representatives.
<ul style="list-style-type: none"> • A planning official may be offered, or may request, a bribe to influence a planning decision. 	<ul style="list-style-type: none"> ✓ There should be a clear commitment from senior management to prevent bribery and corruption and a clear statement of ethical values. ✓ A proportionate bribery and corruption risk assessment should be carried out and reviewed periodically. ✓ There should be arrangements in place for raising and reinforcing bribery and corruption awareness, perhaps as part of fraud awareness training or via staff bulletins on the intranet. ✓ There must be a clear route for those wishing to raise concerns about actual or potential bribery and corruption.
<ul style="list-style-type: none"> • A planning official may manipulate a planning fee to a lesser amount or process as a zero fee, in return for a bribe. 	<ul style="list-style-type: none"> ✓ All fee calculations should be checked and confirmed by another planning official independent of the case.
<ul style="list-style-type: none"> • Planning applications submitted by planning officials could lead to suspicions of impropriety. 	<ul style="list-style-type: none"> ✓ Planning officials must play no part in decisions involving their own planning applications. Any such interest should be declared and appropriately managed. ✓ Planning applications submitted by planning officials should be determined by the council's planning committee, in the interests of transparency.
<ul style="list-style-type: none"> • A planning official may manipulate internal systems/ processes for their own or a third party's advantage, e.g. to influence a planning decision to the advantage of themselves/family member/friend. 	<ul style="list-style-type: none"> ✓ A robust system of internal controls should be in place, including separation of duties, effective supervision, management oversight and transparent and well documented decisions. Internal controls must be tested regularly to ensure they are operating effectively - see Internal Fraud Risks guide, NIAO, 2022.



Planning officials

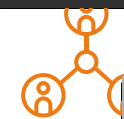
Fraud Risks/Red Flags	Mitigating Controls
<ul style="list-style-type: none"> • A planning official may fail to declare an interest in a situation where they could use their professional position for personal gain (e.g. in relation to land holdings or by acting as a planning agent). 	<ul style="list-style-type: none"> ✓ There should be a comprehensive set of complementary policies, such as conflicts of interest, gifts and hospitality, anti-fraud and raising concerns. ✓ The planning authority's code of conduct must make clear which interests must be declared. Declared interests must be properly managed.
<ul style="list-style-type: none"> • A planning official may be subject to undue influence if they accept generous gifts, hospitality or other benefits from developers or planning applicants. 	<ul style="list-style-type: none"> ✓ Planning officials must ensure they do not accept frequent and/or generous gifts or hospitality, to avoid the reality or perception of undue influence. ✓ Planning authorities must establish clear guidelines/thresholds for the acceptance of gifts and hospitality. ✓ Registers of gifts and hospitality should be published on the planning authority's website, in an accessible format, to promote transparency.
<ul style="list-style-type: none"> • A planning official could be influenced in their official capacity due to a previous or prospective employment relationship, e.g. with a developer. 	<ul style="list-style-type: none"> ✓ Planning authorities need to be mindful of the "revolving door". There must be clear guidance around such situations and effective management of any conflicts of interest (see link to good practice above). ✓ Officials involved in planning should receive training about the risks of abusing the "revolving door". ✓ Planning authorities should consider whether officials who have employment links, past or present, with developers should be involved in the planning process. Any potential conflicts of interest must be identified and properly managed.



Third parties

Fraud Risks/Red Flags	Mitigating Controls
<ul style="list-style-type: none"> An applicant may make a false or misleading statement on a planning application. 	<ul style="list-style-type: none"> ✓ Planning officials must exercise due diligence when considering planning applications and not accept information at face value. ✓ Planning authorities' planning application documentation should require the applicant to sign a declaration that all information provided on the form is accurate and truthful. ✓ Planning authorities should consider whether any sanctions might be imposed against those making false or misleading statements on planning applications. ✓ Planning authorities should ensure that fraud awareness training for planning officials highlights the fraud risks associated with third parties.
<ul style="list-style-type: none"> An applicant may provide false documentation in support of a planning application. 	<ul style="list-style-type: none"> ✓ Planning officials/statutory consultees should take reasonable steps to verify that official documents provided in support of planning applications are genuine, e.g. on official headed paper and properly signed. ✓ Planning authorities' planning application documentation should require the applicant to sign a declaration that all evidence provided in support of the application is authentic, accurate and truthful. ✓ Planning authorities should consider whether any sanctions might be imposed against those submitting false documentation in support of planning applications.
<ul style="list-style-type: none"> A supporter of, or objector to, a planning application may make a false or misleading statement as part of their representation. 	<ul style="list-style-type: none"> ✓ Planning officials should exercise due diligence when considering representations in relation to planning applications. ✓ Planning authorities' guidance to those wishing to comment on or object to a planning application should make clear that any statements made as part of their representation must be accurate and truthful. ✓ Planning authorities should consider whether any sanctions might be imposed against those making false or misleading statements when submitting representations about planning applications.

Third parties



Fraud Risks/Red Flags	Mitigating Controls
<ul style="list-style-type: none"> • A supporter of, or objector to, a planning application may provide false documentation as part of their representation. 	<ul style="list-style-type: none"> ✓ Planning officials/statutory consultees should take reasonable steps to verify that official documents provided as part of representations made in relation to planning applications are genuine, e.g. on official headed paper and properly signed. ✓ Planning authorities' guidance to those wishing to comment on or object to a planning application should make clear that any documentation provided as part of an objection must be authentic and truthful. ✓ Planning authorities should consider whether any sanctions might be imposed against those submitting false documentation as part of representations in relation to a planning application.
<ul style="list-style-type: none"> • A planning agent may deceive a planning authority by falsifying documentation submitted in support of a planning application. 	<ul style="list-style-type: none"> ✓ Planning officials should take reasonable steps to verify that official documents provided by planning agents in support of planning applications are genuine, e.g. on official headed paper and properly signed. ✓ Planning authorities' planning application documentation should require planning agents to sign a declaration that all evidence provided in support of the application is authentic, accurate and truthful. ✓ Planning authorities should consider whether any sanctions might be imposed against planning agents who submit false documentation in support of planning applications.
<ul style="list-style-type: none"> • A planning agent may deceive both the party on whose behalf they are acting and the planning authority, by falsifying a planning decision document, thereby causing potential financial loss to both parties and possible reputational damage to the planning authority. 	<ul style="list-style-type: none"> ✓ Planning authorities should consider having guidance on their website advising planning applicants who have secured planning permission via a planning agent to confirm the validity of the planning decision document directly with the planning authority, before incurring any further expense.

Useful sources

NI Local Government Code of Conduct for Councillors, DoE, May 2014

Application of the Councillors' Code of Conduct with regard to Planning Matters, DoE, February 2015

Application of the Councillors' Code of Conduct with regard to Planning Matters, summary of Dos and Don'ts, DoE, February 2015

Conflicts of Interest: A Good Practice Guide, NIAO, March 2015

NI Local Government Code of Conduct for Councillors: Guidance for Councillors from the NI Local Government Commissioner for Standards, NILGCS, May 2017

Managing the Risk of Bribery and Corruption: A Good Practice Guide for the NI Public Sector, NIAO, November 2017

Probity in Planning: Advice for councillors and officers making planning decisions, Local Government Association and Planning Advisory Service, December 2019

Probity and the Professional Planner, Royal Town Planning Institute, January 2020

Raising Concerns: A Good Practice Guide for the NI Public Sector, NIAO, June 2020

Permission Accomplished: Assessing corruption risks in local government planning, Transparency International, July 2020

Planning in Northern Ireland, NIAO, February 2022

Planning in Northern Ireland, Public Accounts Committee, March 2022

Case examples



Case example – close relationship between planning committee members:

A councillor who was a member of the planning committee applied for permission to replace an existing caravan with a dwelling. The application was recommended for refusal by officers because it was within an Area of Outstanding Natural Beauty. The chair of the planning committee used his casting vote to approve the application. The councillor concerned had declared an interest and left the room, but a complaint was made that the councillor and chair were friends.

The Ombudsman found that there had been 'maladministration leading to injustice'. The only councillors who should have voted on the application were those whose relationship with the councillor would not lead a member of the public to think that their decision, because of that relationship, would be biased. The association between the two had not been confined to council business but included church functions, political events and mutual friends bringing the two families together regularly.

Source: *Application of the Councillors' Code of Conduct with Regard to Planning Matters*, Department of the Environment, February 2015



Case example – close relationship between council leader and planning applicants:

The planning committee of Folkestone and Hythe Council voted against the recommendation of planning officers to reject plans for a new holiday resort at a farm near Folkestone, within an Area of Outstanding Natural Beauty. A Judicial Review in February 2018 ruled that the Council's decision to approve the development was "irrational and unintelligible". However, despite the ruling, the planning committee again approved the development, and a local campaigner secured a second Judicial Review of the decision. Media reports highlighted a close relationship between the Council leader and the planning applicants.

Speaking about the cost to the taxpayer, the chief executive of the TaxPayers' Alliance said: "*Maximum scrutiny should be applied to this case to ensure there is no conflict of interest, as the landowners and council leader openly admit to being friends and the council is going against the recommendations of its own officers*".

Source: Media reports, October 2018

Case examples

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Case example – corruption of elected representatives

In March 2002, the former Chair of Planning for Doncaster City Council was sentenced to four years in prison after receiving bribes, including a farmhouse valued at £160,000, from a property developer who also received a five-year sentence. A further 21 councillors were convicted of fraud during the police investigation. The Judge told the court that the scandal had betrayed the public's trust and seen the "worst sort of corruption" – the undermining of previously honest and hard-working elected representatives. The Judge noted: *"Public life requires a standard of its own. Power corrupts and corruption in government by those elected by the public strikes at its integrity and at the root of democracy."*

Source: *UK Anti-Corruption Plan*, HM Government, December 2014



Case example – undeclared interest

A councillor was suspended from the planning committee for three months because he had spoken against an application for a snack bar but had failed to declare that he had a non-financial interest because he was an office bearer at the church which objected to the proposal.

Source: *Application of the Councillors' Code of Conduct with Regard to Planning Matters*, Department of the Environment, February 2015



Case example – abuse of position

There were allegations that a council leader in England replaced the planning committee Chairman because the committee had failed to approve a development that would have benefitted the council leader's long-term friend. The replacement Chairman had previously supported projects by the same development company which was led by the council leader's friend.

Source: *Corruption in UK Local Government*, Transparency International, October 2013

Case examples

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Case example – third party fraud (applicant)

A planning applicant, who was also a solicitor and a Deputy District Judge, submitted fictitious letters to a council in support of planning applications and was convicted of several fraud offences.

An investigation by Scarborough Borough Council found that the applicant had attempted to subvert the planning process. He had applied for planning permission to develop land at several locations within the Whitby area. It was alleged that he attempted to influence the planning office by submitting numerous items of correspondence purporting to be from members of the general public, in support of his applications. The letters and emails were found to have been submitted by the applicant using the names and addresses of others, without their permission. Police said the content of the correspondence was also entirely fictitious.

The Head of Economic Crime and Major Fraud at North Yorkshire Police said that the applicant was *“a highly qualified judge who used his enhanced knowledge of the legal system to commit crime and deceive a number of public sector organisations.”*

The applicant was sentenced to 20 weeks' imprisonment suspended for two years, ordered to pay £2,747 in compensation and £7,285 in costs, and also ordered to do 200 hours of unpaid work.

Source: Media reports, November 2017



Case example – third party fraud (objector)

A woman objecting to a planning application forged letters which were accepted as genuine by a local government ombudsman. She sent letters to the former Teesdale District Council (objecting to planning permission and purporting to be from a local parish council) which formed the basis of a report by the ombudsman into possible maladministration.

The prosecuting barrister said the forgery...was tantamount to perverting the course of justice. He said: *“She persisted with the lie that these were genuine documents, and her behaviour threw suspicion on a large number of people. Planning officers were investigated and people working for the parish council came under suspicion.”*

The woman received a nine-month sentence, suspended for 18 months.

Source: Media reports, November 2015

Self-assessment checklists

Please note: These checklists are *for guidance only* and are not intended to be exhaustive. They focus on the **key good practice standards** and should be considered in conjunction with the more detailed mitigating controls listed in the main sections of this Guide. The checklists should be completed and reviewed/updated periodically to provide a degree of assurance in relation to *your* exposure (as a **planning authority, elected representative or planning official**) to planning fraud risks.

Good practice standard	Yes/No	Action required
1. Planning authorities		
1.1 We have clear policies and procedures in place for the planning process. They include a commitment to zero tolerance of unethical behaviour, fraud, bribery and corruption. This guidance is readily accessible to all those involved in the planning process.		
1.2 We ensure that planning decision-makers receive regular awareness training on probity, proper practice and the legal requirements of planning decision-making, including awareness of the fraud risks and undue influences they may face.		
1.3 We have completed a proportionate fraud, bribery and corruption risk assessment in relation to our planning function. It is reviewed periodically to take account of new and emerging risks.		
1.4 We make clear in our guidance and training that the process for arriving at planning decisions must be open, transparent and impartial .		
1.5 We make clear in our guidance and training that the reasons for all planning decisions must be clearly documented.		

Good practice standard	Yes/No	Action required
1.6 We have a robust system of internal controls in place in relation to the planning process, including separation of duties, effective supervision, management oversight and transparent, well-documented decisions. Controls are tested regularly to ensure they are operating effectively.		
1.7 We have a comprehensive set of complementary policies in place including conflicts of interest, gifts and hospitality, anti-fraud and raising concerns. These are readily accessible to all those involved in the planning process.		
1.8 We are aware of good practice guidance on managing conflicts of interest (<u>Conflicts of Interest: a Good Practice Guide</u> , NIAO, 2015).		
1.9 We publish our register of interests in an accessible format, to promote transparency.		
1.10 We are particularly aware of the risks where planning decision-makers have employment links, past or present, with developers, and have arrangements in place to manage these risks effectively.		
1.11 We have established clear guidelines and thresholds for the acceptance of gifts and hospitality.		

Good practice standard	Yes/No	Action required
1.12 We publish our register of gifts and hospitality in an accessible format, to promote transparency.		
1.13 We recognise that planning officials must have the requisite skills to properly administer the planning system while minimising key fraud risks. We provide an ongoing programme of training and development to ensure they have the necessary capability and expertise.		
1.14 Our fraud awareness training includes highlighting the planning fraud risks associated with third parties.		
1.15 We have a clearly sign-posted procedure in place for those who wish to raise concerns about planning proposals or decisions, including concerns about potential fraud, bribery or corruption. We listen to concerns from elected representatives, officials and third parties and ensure that they are properly considered and addressed.		
1.16 We are aware of good practice guidance on effective arrangements for raising concerns – (<u>Raising Concerns: a Good Practice Guide for the NI Public Sector</u> , NIAO, 2020).		
1.17 Where possible, we impose meaningful sanctions against those who abuse the planning process, as a deterrent to others.		

Good practice standard	Yes/No	Action required
2. Elected representatives		
2.1 As an elected representative involved in the planning process, I am aware of my responsibility to abide by the seven Nolan principles and the additional five principles adopted by the NI Assembly (as set out in The Northern Ireland Local Government Code of Conduct for Councillors).		
2.2 As an elected representative involved in the planning process, I am familiar with, and adhere to, my authority's policy, procedures and guidance on the planning process, including probity, proper practice and legal requirements.		
2.3 As an elected representative involved in the planning process, I avail of regular training provided by my authority, including fraud awareness, bribery and corruption training.		
2.4 As an elected representative involved in the planning process, I am aware that the process for arriving at planning decisions must be open, transparent and impartial.		
2.5 As an elected representative involved in the planning process, I am aware that if I have discussions with third parties, I must be accompanied by a planning official who will document the meeting, including the issues raised and the advice given.		
2.6 As an elected representative involved in the planning process, I am aware that planning decisions must be clearly documented in the minutes of planning meetings and recorded on the planning application file/planning portal.		

Good practice standard	Yes/No	Action required
2.7 As an elected representative involved in the planning process, I acknowledge that decisions contrary to a planning official's recommendation must be based on sound planning considerations.		
2.8 As an elected representative involved in the planning process, I am familiar with my authority's policies on conflicts of interest, gifts and hospitality, anti-fraud and raising concerns. I adhere to these policies.		
2.9 As an elected representative involved in the planning process, I am aware of the consequences of misconduct and the sanctions that may be imposed on me by the Northern Ireland Ombudsman.		
2.10 As an elected representative involved in the planning process, I am aware that I must not abuse my position by seeking to bring undue influence to bear on planning officials in relation to planning decisions.		
2.11 As an elected representative involved in the planning process, I recognise that I must make planning decisions in the interests of the planning authority as a whole, and not in favour of individual constituents or particular interests. Decisions must be free from undue influence.		
2.12 As an elected representative involved in the planning process, I recognise that I must make my own decisions on the merits of planning applications, rather than as part of a political grouping.		
2.13 As an elected representative, I recognise that I must take particular care in pre-election periods to avoid any perception of influencing planning decisions in return for votes.		

Good practice standard	Yes/No	Action required
2.14 As an elected representative involved in the planning process, I recognise that I must declare an interest and take no part in deliberations or decisions about any planning application that I might submit.		
2.15 As an elected representative involved in the planning process, I recognise that I must declare an interest and take no part in deliberations or decisions about any planning applications submitted by a family member, friend or close associate.		
2.16 As an elected representative involved in the planning process, I recognise that I must register and declare any direct or indirect pecuniary interests.		
2.17 As an elected representative involved in the planning process, I recognise there is a potential conflict of interest if I have employment links, past or present, with developers. In such a situation, I recognise that I must declare any potential conflict so that it can be properly managed.		
2.18 As an elected representative involved in the planning process, I recognise that I must not accept frequent and/or generous gifts or hospitality, to avoid the reality or perception of undue influence.		
2.19 As an elected representative involved in the planning process, I recognise that I must raise any concerns I have about potential fraud, bribery or corruption, in line with my authority's raising concerns policy.		

Good practice standard	Yes/No	Action required
3. Planning officials		
3.1 As a planning official, I am aware of my responsibility to abide by the seven Nolan principles, my authority's code of conduct and any professional codes of conduct that apply to me.		
3.2 I am familiar with my authority's policy, procedures and guidance on the planning process, including probity, proper practice and legal requirements.		
3.3 I avail of regular training provided by my authority, including fraud awareness, bribery and corruption training.		
3.4 I am aware that the process for arriving at planning decisions must be open, transparent and impartial and that planning decisions must be clearly documented.		
3.5 I am familiar with my authority's policies on conflicts of interest, gifts and hospitality, anti-fraud and raising concerns. I adhere to these policies.		
3.6 I am aware of the risk of undue influence from elected representatives in relation to planning decisions. If this happened, I would raise it with my line manager or through other channels set out in my authority's raising concerns policy.		

Good practice standard	Yes/No	Action required
3.7 I recognise that I must declare an interest and take no part in the planning process in relation to any planning application that I might submit.		
3.8 I recognise that I must declare an interest and take no part in in the planning process in relation to any planning applications submitted by a family member, friend or close associate.		
3.9 I recognise that I must register and declare any direct or indirect pecuniary interests relevant to my planning role.		
3.10 I recognise there is a potential conflict of interest if I have employment links, past or present, with developers. In such a situation, I recognise that I must declare any potential conflict so that it can be properly managed.		
3.11 I recognise that I must not accept frequent and/or generous gifts or hospitality, to avoid the reality or perception of undue influence in my planning role.		
3.12 I am familiar with my authority's policy and guidelines on gifts and hospitality. I adhere strictly to the policy.		

Good practice standard	Yes/No	Action required
3.13 I recognise that I must raise any concerns I have about potential fraud, bribery or corruption, in line with my authority's raising concerns policy.		
3.14 I recognise the importance of internal controls within the planning system and that they are there to protect me as well as the planning authority. I ensure that I adhere to the system of internal controls.		
3.15 I am aware of the potential fraud risks posed by third parties (e.g. planning applicants, objectors, planning agents).		
3.16 I exercise due diligence when processing planning applications and considering objections, and do not take the information provided at face value.		
3.17 I take reasonable steps to ensure that documents provided in support of planning applications, or in support of objections, are genuine.		

Independence and excellence in audit to improve public services

March 2023



Northern Ireland
Audit Office



Planning Committee

03 April 2023

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 6 - Notification by telecommunication operator(s) of intention to utilise permitted development rights

Background and Key Issues:

Background

1. The Council is notified by Openreach of their intention to utilise permitted development rights to install communications apparatus at various locations within the Council area (**see Appendix**).
2. The works consist of the installation of poles to enable residents to receive high speed broadband. The Council is advised that the work is being carried out in accordance with Part 18 (Development by Electronic Communications Code Operators) F31 of the Planning (General Permitted Development) Order (Northern Ireland) 2015.

Key Issues

1. The notification advises the Council of the location where the operator intends to utilise permitted development rights. Detail is also provided in relation to the nature and scale of the works proposed.
2. The content of this recent notification is provided and attached to this report. No comment is provided on the requirement for planning permission for the equipment listed. This letter is also referred to the enforcement section of the Council. They will write separately to the

operator should it be considered that the requirements of the Regulations cannot be met at any of the locations specified by the operator.

Recommendation:
It is recommended that Members note the detail of the notifications specific to the sites identified.

Finance and Resource Implications:
There are no finance or resource implications.

Screening and Impact Assessment

1. Equality and Good Relations

Has an equality and good relations screening been carried out on the proposal/project/policy?

If no, please provide explanation/rationale

This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. EQIA not required.

If yes, what was the outcome?:

Option 1 Screen out without mitigation	<input type="text" value="N/A"/>	Option 2 Screen out with mitigation	<input type="text" value="N/A"/>	Option 3 Screen in for a full EQIA	<input type="text" value="N/A"/>
--	----------------------------------	---	----------------------------------	--	----------------------------------

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

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?	<input type="text" value="No"/>	Has a Rural Needs Impact Assessment (RNIA) template been completed?	<input type="text" value="No"/>
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If no, please given explanation/rationale for why it was not considered necessary:

This is a report providing notification by telecommunication operator(s) of intention to utilise permitted development rights. RNIA not required.

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

N/A

SUBJECT TO PLANNING APPROVAL:

No

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

APPENDICES:

APPENDIX 6 – Notifications from an Operator in respect of intention to utilise permitted development rights

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:

**List of Notifications from Telecommunication Operators in relation to intentions to utilise Permitted Development Rights
April 2023 Planning Committee**

	Applicant/Agents	Operator	Location	Summary of details	Date received
1	Openreach	Openreach	12 Manse Road	Notice of Pole Erection	23/02/2023
2	Openreach	Openreach	47 Sheepwalk Road	Notice of Pole Erection	23/02/2023
3	Openreach	Openreach	36 Killultagh Road, Stonyford, Lisburn	Notice of Pole Erection	01/03/2023



Planning Committee

03 April 2023

Report from:

Head of Planning and Capital Development

Item for Noting

TITLE: Item 7 - DfI Letter to Councils - Planning Fees

Background and Key Issues:

Background

1. There has not been an uplift in planning fees since 2019 and the Department for Infrastructure has been lobbied extensively in the intervening period to further consider this matter as it impacts directly on the operation of services provided by local Councils.
2. In a letter dated 15 March 2023, the Deputy Secretary for the Department for Infrastructure writes to advise that the Department has made a Statutory Rule entitled The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023 No. 37). The rule comes into operation on 06 April 2023.

Key Issues

1. The purpose of this Statutory Rule is to amend the Planning (Fees) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 37) to apply a one year inflationary uplift of approximately 12.3 % (based on the RPI as at August 2022) across all fee categories.
2. The Department highlights this uplift in planning fees as part of the Planning Improvement Programme, arising from the recommendations in the NIAO and PAC reports on Planning and will assist Councils and the Department in resourcing the delivery of their development management functions.

- 3. A copy of the Rule can be viewed online at www.legislation.gov.uk
- 4. The Department further indicate that they will update Development Management Practice Note 11 (Planning Fees) to reflect changes in fees. This note will be available to view as soon as possible following commencement of the Regulations, and by the end of April 2023.

Recommendation:

It is recommended that Members note the detail of the planned uplift in planning fees.

Finance and Resource Implications:

Inflationary uplift of approximately 10% overall across all planning application fee categories should result in a net planning fee increase as per the 2023/43 budget and was allowed for in the estimates. However members will be aware that the level of income is dependent on number of application lodged and that his can vary from year to year. .

Screening and Impact Assessment

1. Equality and Good Relations

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

If no, please provide explanation/rationale

This is a report providing notification of Planning Fees Uplift. EQIA not required.

If yes, what was the outcome?:

Option 1 Screen out without mitigation	N/A	Option 2 Screen out with mitigation	N/A	Option 3 Screen in for a full EQIA	N/A
--	-----	---	-----	--	-----

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

N/A

Insert link to completed Equality and Good Relations report:

2. Rural Needs Impact Assessment:

Has consideration been given to Rural Needs?

No

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

No

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

This is a report providing notification of Planning Fees Uplift. RNIA not required.

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

N/A

SUBJECT TO PLANNING APPROVAL:

No

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

APPENDICES:

APPENDIX 7 (a) – Letter from DfI in relation to Planning Fees
APPENDIX 7 (b) - The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2023

HAS IT BEEN SUBJECT TO CALL IN TO DATE?

No

If Yes, please insert date:

Department for
Infrastructure

An Roinn

Bonneagair

Department for

Infrastructurewww.infrastructure-ni.gov.uk

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Climate, Planning and Public Transport**Council Chief Executives****Deputy Secretary**

Room 1-05
Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB

Tel: 0300 200 7830

Email: Julie.thomson@infrastructure-ni.gov.uk

Your Reference:

Our Reference:

15 March 2023

Dear Chief Executives

Planning Fees

I am writing to advise you that the Department for Infrastructure has made a Statutory Rule entitled "The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2023" (S.R. 2023 No. 37), which comes into operation on 06 April 2023. The planning portal is being updated accordingly and this uplift is being publicly announced today. Your Head of Planning is aware of these plans.

The purpose of this Statutory Rule is to amend the Planning (Fees) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 73) to apply a one-year inflationary uplift of approximately 12.3% (based on RPI as at August 2022) across all fee categories. This will mean that, for example, the fee for:

- an extension, improvement or alteration of a dwellinghouse will increase from £291 to £327;
- the erection of single dwelling house will rise from £868 to £975; and
- the erection of 50 dwelling houses will increase from £18,492 to £20,777.

This uplift in planning fees is part of the Planning Improvement Programme, arising from the recommendations in the NIAO and PAC reports on Planning and will assist councils and the Department in resourcing the delivery of their development management functions.

Copies of the Rule may be purchased from the Stationery Office at www.tsoshop.co.uk or by contacting TSO Customer Services on 0333 202 5070 or viewed online at www.legislation.gov.uk.

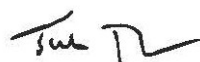
The Department is also currently updating the Development Management Practice Note 11 (Planning Fees) and this will be available to view as soon as possible following commencement of the Regulations, and by the end of April 2023.

I also want to take this opportunity to provide you with an update on the new Planning Portal. Like many large-scale system implementations, with multiple organisations and stakeholders involved, there have been some initial problems and these are taking longer than we would have wanted to resolve. The Project Team and the Intelligent Client Function- ICF (Belfast City Council) have been working closely with the IT supplier to resolve these problems as quickly as possible. As part of that work a series of system updates by the supplier commenced on 9 February and these are continuing every two weeks into April to resolve any issues on a priority basis. Much progress has been made and the remaining issues are being worked through urgently. The Department and the ICF will continue to closely work with the supplier to resolve any outstanding issues to further improve system performance and will keep the Planning Portal Governance Board updated on progress.

In terms of external engagement, the FAQ's for the Planning Portal have been updated on the Department's and councils' websites and shared with a wide range of stakeholders. Going forward, the FAQ's will be updated in line with the planned software upgrades being carried out by the IT supplier. The Department is also engaging directly with other stakeholders to address any issues they may have with the new Portal. In addition, I can also advise that the Department is organising a workshop with some key stakeholders, including agents and architects, later this month to seek their views on what is working well and what areas could be improved.

I trust you find this information helpful.

Yours sincerely



Julie Thompson
Deputy Secretary

 STATUTORY RULES OF NORTHERN IRELAND

2023 No. 37**PLANNING****The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2023**

Made - - - - - *15th March 2023*

Coming into operation *6th April 2023*

The Department for Infrastructure makes the following Regulations in exercise of the powers conferred by sections 223(1), (9) and 247(1) of the Planning Act (Northern Ireland) 2011^(a) and now vested in it^(b).

Citation and commencement

1. These Regulations may be cited as the Planning (Fees) (Amendment) Regulations (Northern Ireland) 2023 and shall come into operation on 6th April 2023.

Amendment of the Planning (Fees) Regulations (Northern Ireland) 2015

2.—(1) The Planning (Fees) Regulations (Northern Ireland) 2015^(c) shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 8(1) (amount of reduced fees and refunds) for “£65” substitute “£73”.

(3) In regulation 9(1) (fees for applications for express consent to display advertisements) for “£193” substitute “£217”.

(4) In regulation 11 (fee for an application for planning permission for EIA development) for “£10,844” substitute “12,177”.

(5) In regulation 12 (fees for applications for certificates of lawful use or development)—

(a) in paragraph (3)(b) for “£257” substitute “£289”; and

(b) in paragraph (4) for “£257” substitute “£289” and for “£12,850” substitute “£14,450”.

(6) In Schedule 1 (fees in respect of applications for planning permission or for approval of reserved matters)—

(a) in Part 1, in paragraph 4(2) and (3) for “£565” substitute “£634”; and

(b) for Part 2, substitute Part 2 as set out in the Schedule to these Regulations.

(7) In Schedule 2 (fees for hazardous substances consent)—

(a) for “£347” in each position where it occurs substitute “£390”;

(b) for “£435” substitute “£488”; and

(a) 2011 c.25(N.I.)

(b) S.R. 2016 No. 76 – see Article 8 and Part 2 of Schedule 5 of the Departments (Transfer of Functions) Order (Northern Ireland) 2016

(c) S.R. 2015 No. 73 as amended by S.R. 2015 No. 398 and S.R. 2019 No. 112

(c) for “£694” substitute “£779”.

Sealed with the Official Seal of the Department for Infrastructure on 15th March 2023



Alistair Beggs
A senior officer of the Department for Infrastructure

SCHEDULE

Regulation 2(6)(b)

SUBSTITUTION OF PART 2 OF SCHEDULE 1 TO THE PLANNING
(FEES) REGULATIONS (NORTHERN IRELAND) 2015

“PART 2

SCALES OF FEES

<i>Category of Development</i>	<i>Fee payable</i>
1. All buildings (other than a single dwellinghouse).	Outline Applications £289 for each 0.1 hectare of the site area subject to a maximum of £11,560.
2. Single dwellinghouse.	Outline Applications £486.
3. The erection of a dwellinghouse.	(a) Reserved matters where the application is for a single dwellinghouse, £486; (b) Full where the application is for a single dwellinghouse, £975; (c) Full and reserved matters For 2 or more dwellinghouses— (i) where the number of dwellinghouses to be created by the development is 50 or fewer, £1,145 for two dwellinghouses and £409 for each additional dwelling house; (ii) where the number of dwellinghouses to be created by the development exceeds 50, £20,777; and an additional £121 for each dwellinghouse in excess of 50 dwellinghouses, subject to a maximum in total of £304,401.
4. The extension, improvement or alteration of an existing dwellinghouse, including the erection of a building or the carrying out of other operations within the curtilage of a dwellinghouse for purposes ancillary to the enjoyment of the dwellinghouse as such, or the erection or construction of gates, fences, walls or other means of enclosure along a boundary or a curtilage of an existing dwellinghouse.	£327 for each dwelling.
5. The erection of industrial, commercial, community and other buildings, other than dwellinghouses or buildings covered by category 4.	Full and Reserved Matters (a) where no floor space is to be created by the development, £208; (b) where the area of gross floor space to be created by the development does

- not exceed 40 sq.m., £208;
- (c) where the area of the gross floor space to be created by the development exceeds 40 sq.m., but does not exceed 75 sq.m., £409;
- (d) where the area of the gross floor space to be created by the development exceeds 75 sq.m., but does not exceed 3,750 sq.m., £409 for each 75 sq.m. of that area;
- (e) where the area of gross floor space to be created by the development exceeds 3,750 sq.m., £20,450; and an additional £121 for each 75 sq.m., in excess of 3,750 sq.m., subject to a maximum in total of £304,316.
- (a) where the site area does not exceed 5 hectares, £409 for each 0.1 hectare of the site area;
- (b) where the site area exceeds 5 hectares, £20,450; and an additional £121 for each 0.1 hectare in excess of 5 hectares, subject to a maximum in total of £304,316.
6. The erection, alteration or replacement of plant and machinery including telecommunications/datacommunications equipment, a single wind turbine and wind farms. £1,087 for each 500 sq.m. of floor space subject to a maximum of £14,403.
7. The erection, on land used for the purposes of agriculture, of buildings to be used for agricultural purposes and for agricultural and commercial glasshouses. £2,162 for each 5 hectares of the site area subject to a maximum of £38,916.
8. The winning and working of peat. £418 per 0.1 hectare of the site area subject to a maximum of £46,816.
9. (a) The winning and working of minerals (other than peat).
 (b) The carrying out of any operations connected with exploratory drilling for oil or natural gas.
 (c) The use of land for the disposal of refuse or waste materials or for the deposit of material remaining after minerals have been extracted from land or the use of land for the storage of minerals in the open.
 (d) The carrying out of any other operation not coming within any of the above categories.
10. The construction of single level car parks, service roads and other means of access on land used for the purpose of a single undertaking, where the development is required for a purpose incidental to the existing use of the land. £289.
11. (a) The continuance of a use of land or the retention of buildings or works on land, without £289.

compliance with a condition subject to which a previous planning permission has been granted (including a condition requiring discontinuance of the use or the removal of the building or works at the end of the specified period).

(b) An application to develop land without compliance with a condition subject to which a previous planning permission has been granted.

12. An application for a material change of use.
- (a) where the application relates to a dwellinghouse, £793 for the first dwellinghouse and £289 for each additional dwellinghouse subject to a maximum of £14,450;
 - (b) for any other change of use, £289 for each 75 sq.m., of floor space subject to a maximum of £14,450.
13. Any other application not falling within categories 1-12. £952.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Planning (Fees) Regulations (Northern Ireland) 2015 which prescribe the fee payable in respect of applications made under the Planning Act (Northern Ireland) 2011. The Regulations increase planning fees by approximately 12.3% overall.

The Explanatory Memorandum is available alongside the instrument on the Government's legislation website: www.legislation.gov.uk.

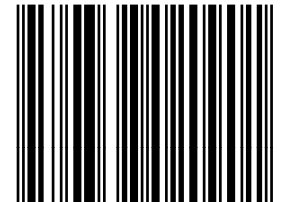
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