29 December 2017

Chairman: Councillor L Poots
Vice Chairman: Councillor N Trimble
Aldermen: D Drysdale, J Dillon MBE JP
Councillors: N Anderson, J Craig, O Gawith, A Girvin, B Hanvey, U Mackin, M Tolerton

The Monthly Meeting of the Planning Committee will be held in the Council Chamber, Island Civic Centre, The Island, Lisburn, on Monday 8 January 2018 at 2.00 pm, for the transaction of business on the undernoted Agenda.

Please note that lunch will be available in The Members Suite from 1.30 pm. Refreshments will also be available in The Members Suite during the adjournment of the meeting at 5.30 pm.

You are requested to attend.

DR THERESA DONALDSON
Chief Executive
Agenda

1. Apologies

2. Declarations of Interest

3. Minutes:

   Minutes of the Planning Committee Meeting held on 4 December 2017

4. Report from the Lead Head of Planning

   4.1 Schedule of Applications to be Determined

   (1) LA05/2017/0330/RM – Major Application – Demolition of existing buildings and erection of mixed use development including guest house, equestrian facilities and 2 no. replacement dwellings on lands bounded by Hillsborough Road, Lisburn Road and Sandringham Court, Hillsborough.

   (2) LA05/2017/0428/F – Major Application – Erection of 53 no. dwellings (comprising detached, semi-detached and townhouse dwellings), with garages, landscaping, access and other associated site works on lands immediately adjacent to and north-east of 21 & 30 Glebe Park, Aughnafosker, Moira.

   (3) S/2014/0398/F – Local Application – Erection of 9 dwellings (Amended plans) at 15 Rathfriland Road, Dromara.

   (4) LA05/2016/0565/O – Local Application – Proposed dwelling on in-fill site between 4 & 4a Windmill Road, Hillsborough.

   (5) LA05/2016/0721/O – Local Application – Erection of detached dwelling to rear garden of existing dwelling, with access via shared driveway at 176 Saintfield Road, Belfast.

   (6) LA05/2017/0472/O – Local Application – Outline planning application for 2 infill dwellings, garages and associated site works on lands between 20 and 26 Windmill Road.

   (7) LA05/2017/0698/O – Local Application – 1 no. dwelling and garage including vehicular access (under policy CTY10 and Policy CTY2a of PPS21) (Amended plans) on lands south east of 120 Pond Park Road, Lisburn.
(8) LA05/2017/0710/O – Local Application – Proposed dwelling and garage on lands adjacent to 6 Edentrillick Hill, Hillsborough.

4.2 NILGA Planning Portal Training Information

4.3 Planning Appeal Decisions as at 20 December 2017

4.4 Northern Ireland Planning Statistics 2017/18 Second Quarter Statistical Bulletin

4.5 Development Management Practice Note 24 – Section 54 Applications

4.6 Budget Report – Planning Unit

5 Confidential Report

Members are requested to access the Confidential Report on Sharepoint under the Confidential Folder – Planning Committee

5.1 Enforcement - Cases with Court Proceedings for January 2018

Confidential for reason of information relating to any individual; information which is likely to reveal the identity of an individual; and information in relation to which a claim to legal professional privilege could be maintained in legal proceedings.

5.2 Rolling Year Absence Figures for the Planning Unit.

Confidential as it is information relating to an individual.

6. Any Other Business

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To: Members of Lisburn & Castlereagh City Council
LISBURN & CASTLEREAGH CITY COUNCIL

Minutes of Meeting of the Planning Committee held in the Council Chamber, Lisburn & Castlereagh City Council Offices, Island Civic Centre, The Island, Lisburn on Monday 4 December 2017 at 2.00 pm

PRESENT: Councilor L Poots (Chairman)

Councillor N Trimble (Vice-Chairman)

Aldermen J Dillon MBE JP, D Drysdale
Councillors N Anderson, J Craig, O Gawith, A Girvin, B Hanvey, U Mackin,

OTHER MEMBERS: The Right Worshipful the Mayor Councillor T Morrow

IN ATTENDANCE: Director of Service Transformation
Lead Head of Planning
Principal Planning Officer (RH)
Senior Planning Officers (AS and MB)
Committee Secretary
Attendance Clerk

Cleaver Fulton & Rankin
Kate McCusker (Legal Advisor)

Commencement of Meeting

The Chairman, Councillor L Poots, welcomed everyone to the meeting.

Introductions were made by the Chairman and some Housekeeping and Evacuation announcements were made by the Lead Head of Planning.

1. Apologies

It was agreed to accept apologies for non-attendance at the meeting on behalf of Councillor M Tolerton.

2. Declarations of Interest

The Chairman sought Declarations of Interest from Members and reminded them to complete the supporting forms which had been left at each desk.

The following Declarations of Interest were made:

- Councillor U Mackin declared an interest in LA05/2017/0858/F as he had chaired a meeting as former chairman of the Development Committee.
where the Committee had been supportive of development at this site. He advised that he would be withdrawing during discussions.

- Councillor J Craig declared an interest in both LA05/2017/0858/F and LA05/2017/0552/F. In the former case he was supportive of the proposal in the NI Assembly and in the latter case he had previously voiced his support for the application. He advised that he would be withdrawing during discussions.

- Alderman J Dillon stated that he had attended a meeting with consultants in respect of LA05/2015/0342/O but had not pre-determined the application.

- Councillor O Gawith declared an interest in LA05/2015/0342/O as he had agreed to support objectors to a neighbouring development which would throw his independence into doubt. He advised that he would be withdrawing during discussions.

- During the course of the meeting Alderman D Drysdale referred to LA05/2017/0858/F and stated that as a member of the Development Committee he had listened to a presentation from the RUAS regarding Finance and Operational matters, however he had not pre-determined this application. He also referred to his position as Chairman of Inspire Business Park in Dundonald which was a similar enterprise to that being considered under LA05/2015/0342/O however he did not consider that he had pre-determined this application.

- The Chairman, Councillor L Poots advised that his father would be speaking on the following applications at this meeting however he himself had not pre-determined any of these applications: LA05/2015/0342; LA05/2017/0633/O; LA05/2015/0345/F and LA05/2017/0552/F.

3. Minutes

It was proposed by Alderman J Dillon seconded by Councillor N Anderson and agreed that the following Minutes be signed.

- Minutes of Meeting of Planning Committee held on 8 November 2017.

At this stage the Chairman, Councillor Luke Poots advised that the Confidential Report of the Lead Head of Planning would be taken in advance of other Agenda items.

4. Confidential Report from the Lead Head of Planning

It was agreed that the reports and recommendations of the Lead Head of Planning be adopted, subject to any decisions recorded below.

The Chairman advised that the following items would be discussed ‘in Committee’ for the reasons indicated.
‘In Committee’

It was proposed by Alderman J Dillon, seconded by Councillor N Anderson and agreed that the items in the Confidential Report be considered ‘In Committee’, in the absence of press and public being present.

The Legal Advisor left the meeting at 2.08 pm

4.1.1 Verbal Item – Called-in Applications

It was noted that this item was confidential due to being information in relation to which a claim to legal professional privilege could be maintained in legal proceedings.

Members noted the verbal advice provided in respect of the declaration of interests in cases where an application has been called in by a member of the Planning Committee.

4.1.2 Planning Application LA05/2017/0858/F – Proposed Pavilion Building for use as a Conference and Exhibition Space on lands at Balmoral Park, Halftown Road, Maze Long Kesh, Lisburn.

It was noted that this item was confidential due to being information in relation to which a claim to legal professional privilege could be maintained in legal proceedings.

Councillor J Craig and Councillor U Mackin left the meeting at 2.11 pm both having declared an interest in this application.

Members noted the update provided by the Lead Head of Planning who explained that information had come to light which caused him to recommend that the resolution made at the previous meeting of the Committee regarding LA05/2017/0858/F be rescinded and the application re-determined at this meeting.

It was proposed by Councillor N Anderson, seconded by Alderman J Dillon and agreed that this decision would be taken when normal business had resumed.

At members’ request the Legal Advisor returned to the meeting at 2.15 pm and provided clarification on points of law in respect of non-pecuniary interests, this was noted by members.

Councillor U Mackin and Councillor J Craig returned to the meeting at 2.28 pm.

4.1.3 Enforcement Cases with Court Proceedings in December 2017

It was noted that this item was confidential for reason of information relating to any individual; information which is likely to reveal the identity of an individual; and information in relation to which a claim to legal professional privilege could be maintained in legal proceedings.

Having been provided with information on Enforcement Cases with Court Proceedings in December 2017 it was agreed that the information provided within the Report should be noted.
4.1.4 Rolling Year Absence Figures for the Planning Unit

It was noted that this item was confidential for reason of information relating to any individual.

Having been provided with information on rolling year absence figures for the Planning unit, it was agreed that the information be noted.

4.1.5 Verbal Item - Recorded Votes

It was noted that this item was confidential due to being information in relation to which a claim to legal professional privilege could be maintained in legal proceedings.

The Lead Head of Planning updated the Committee on how a request for Recorded Votes was currently facilitated within the Council Standing Orders and it was agreed that the status quo in respect of this would remain.

Resumption of Normal Business

It was proposed by Councillor N Anderson seconded by Alderman D Drysdale and agreed to come out of committee and normal business was resumed.

5. Report from the Lead Head of Planning

It was agreed that the report and recommendations of the Lead Head of Planning be adopted, subject to any decisions recorded below:

Items for Decision

5.1 Schedule of Applications:

The Chairman reminded Members that they needed to be present for the entire item. If absent for any part of the discussion they would render themselves unable to vote on the application.

The Legal Adviser highlighted paragraphs 46 - 48 of the Protocol for the Operation of the Lisburn & Castlereagh City Council Planning Committee which, she advised, needed to be borne in mind when determinations were being made.

The Chairman advised that there were a number of speakers in attendance making representation on some of the applications and therefore the Schedule of Applications would be taken out of order to enable these applications to be taken first.

Councillor U Mackin and Councillor J Craig left the meeting at 2.36 pm both having declared an interest in the next application.
(1) (a) Rescinding of previous decision:
LA05/2017/0858/F – Major Application – Proposed pavilion building for use as conference and exhibition space on lands at Balmoral Park, Halftown Road, Maze Long Kesh (MLK) Lisburn.

The Lead Head of Planning advised that this item had been considered at the last meeting of the Committee however, information had come to light making it necessary for him to recommend that that decision be rescinded and determined again.

It was proposed by Alderman J Dillon, seconded by Councillor N Anderson and agreed to rescind the decision made in respect of the above planning application at the November 2017 meeting of the Committee.

(1) (b) Determination of:
LA05/2017/0858/F – Major Application – Proposed pavilion building for use as conference and exhibition space on lands at Balmoral Park, Halftown Road, Maze Long Kesh (MLK) Lisburn.

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

The Committee, having considered the information provided within the Report of the Senior Planning Officer, agreed by a majority of 8:0 with 0 abstentions to approve the application as outlined in Officer’s report and subject to the conditions stated therein.

Councillor U Mackin and Councillor J Craig were unable to vote due to them having declared an interest in this application.

Councillor U Mackin and Councillor J Craig returned to the meeting at 2.50 pm.

Councillor O Gawith left the meeting at 2.50 pm having declared an interest in the next application.

(2) LA05/2015/0342/O – Major Application – Extension of existing established industrial estate including new access from Lurgan Road, associated landscaping and ancillary works on lands immediately south east of Moira Industrial Estate extending and including properties 49 – 53 Lurgan Road, Moira.

The Senior Planning Officer (AS) presented this application as outlined within the circulated report.

The Committee received Mr Stevens, Mr Warke and Mr Hannon who wished to speak in support of the application highlighting the following:

- There should be a presumption in favour of development.
- There are economic development benefits if this were to be approved.
- The reasons for refusal are a duplication of each other in that they all focus on the issues around the location being at the settlement limits.
• The application does not have to be rigidly compliant to be approved.
• The draft BMAP does not apply and it is within the Committees gift to
determine the weight attached to the Plan.
• The site is screened from public view.
• Findings of the Planning Appeals Commission are material.
• Prematurity is not an issue – exceptions are allowed for.
• SPPS and PPS4 allow for individual merits to be taken on board and there
is no definitive set of exemptions.
• The fact that there is failure to do harm needs to be considered.
• The Plan fails to take a cohesive approach to housing and ensure that
there is ample supply of land made available.
• This is the only suitable location for the development.
• There is a demand for the floor space.
• Jobs will be protected and 80 jobs created together with 50 construction
jobs.
• There will be rates generation.
• There have been no objections from Statutory Consultees.
• There are no suitable alternative sites available.

There then followed a question and answer session focusing on the above.

The Committee received Mr Edwin Poots MLA who wished to speak in support of
the application highlighting the following:

• The Council has been left in a quandary due to recent planning events
resulting in no Plan being in place.
• The prematurity argument held no weight.
• The business owners need more space to grow their businesses.
• Hannon’s Meats supports local businesses and farmers.
• He clarified that one of the businesses would be moving to the new site
and the other would be expanding at the current location.
• There would be job creation.
• There would be rates generation.
• He considered it sad that the Planning Unit did not accurately reflect this in
their report.

There then followed a question and answer session focusing on the above during
which Alderman J Dillon referred to legal advice provided to the Council by
Stuart Beattie QC but was stopped by the Chairman, Councillor L Poots, as the
information which had been provided was legally privileged.

At the culmination of further discussion and ensuing debate, the decision was put
to a vote and by a majority of 4:5 with 0 abstention, it was agreed that the
recommendation of the Planning Officer would not be upheld.

A recorded vote had been requested by Alderman J Dillon and voting was as
follows:

*In favour of the recommendation to refuse Planning Permission – Councillor N
Trimble, Councillor B Hanvey, Alderman D Drysdale and Alderman J Dillon.*
Against the recommendation to refuse Planning Permission – The Chairman, Councillor L Poots, Councillor U Mackin, Councillor J Craig, Councillor N Anderson and Councillor A Girvin.

The Chairman stated that the Professional Officer's recommendation to refuse planning permission had fallen and that a new motion was now under consideration.

It was then proposed by Councillor N Anderson, seconded by Councillor J Craig and by a majority of 5:4 with 0 abstentions it was agreed that the reasons cited for the approval of the application would be:

- There are no suitable alternative sites available.
- That the committee considers that the SPPS policy statement allows for this to be considered as an exceptional case.
- There would be job creation.
- There would be an increase in rates revenue.
- Sequentially this site is preferable.

Voting was as follows:

In favour of the reasons cited for approval - The Chairman, Councillor L Poots, Councillor U Mackin, Councillor J Craig, Councillor N Anderson and Councillor A Girvin.

Against the reasons cited for approval – Councillor N Trimble, Councillor B Hanvey, Alderman D Drysdale and Alderman J Dillon.

By a majority of 5:4 with 0 abstentions it was then agreed by the Committee that the application was approved for the reasons previously cited by the Committee.

Voting was as follows:

In favour of Planning Permission being granted - The Chairman, Councillor L Poots, Councillor U Mackin, Councillor J Craig, Councillor N Anderson and Councillor A Girvin.

Against Planning Permission being granted – Councillor N Trimble, Councillor B Hanvey, Alderman D Drysdale and Alderman J Dillon.

Councillor O Gawith was unable to vote on the application having declared an interest in it.

The Chairman then highlighted that because the application had been recommended for refusal, no conditions had been drafted. It was agreed by the Committee that the drafting of Conditions be delegated to the Planning Unit.

At this juncture, and after some consideration, it was proposed by Councillor J Craig, seconded by Alderman J Dillon and agreed unanimously that legal advice be sought on the decision reached by the Committee and whether it was necessary for the Department for Infrastructure to be notified of the decision.
Adjournment of Meeting

The Chairman declared a brief adjournment at 4.48 pm
(Councillor A Girvin left the meeting at 4.48 pm and did not return)

Resumption of Meeting

The Chairman declared the meeting resumed at 5.02 pm.
(Councillor O Gawith returned to the meeting at 5.02)

(6) LA05/2017/0633/O – Local (called in) – Proposed 2 no. infill dwellings and garages adjacent to 11 Magheraconluce Lane, Hillsborough.

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

The Committee received Mr John Kilpatrick who wished to speak in support of the application highlighting the following:

- Policy CTY8 states that a road frontage includes a footpath or a private lane, this is clear in the amplification of the detail within the policy.
- He outlined the buildings which in his opinion comprised the frontage.
- He highlighted that the carriageway was a single carriageway, a narrow lane.
- He stated that no two cases were exactly the same and should be taken on their merits – he provided examples.
- He felt that this application was compliant.

There then followed a question and answer session focusing on the above.

The Committee received Mr Edwin Poots MLA who wished to speak in support of the application highlighting the following:

- It was evident that there was a continuum of buildings.
- The issue is whether the split at the 90 degree bend splits this frontage.
- He stated that Mr Kilpatrick had clarified the policy and this should have been a straightforward approval.

There then followed a question and answer session focusing on the above.

At the culmination of further discussion and ensuing debate, the decision was put to a vote and by a majority of 4:5 with 0 abstentions, it was agreed that the recommendation of the Planning Officer would not be upheld.

The Chairman stated that the Professional Officer's recommendation to refuse planning permission had fallen and that a new motion was now under consideration.
It was then proposed by Councillor U Mackin, seconded by Councillor N Anderson and by a majority of 5:4 with 0 abstentions it was agreed that the reasons cited for the approval of the application would be:

- that the Committee believe that this application complies with CTY8 as there is one continuous roadway.

It was then proposed by Councillor N Anderson, seconded by Alderman D Drysdale and by a majority of 5:4 with 0 abstentions the Chairman declared the application approved.

The Chairman then highlighted that because the application had been recommended for refusal, no conditions had been drafted. It was agreed by the Committee that the drafting of Conditions be delegated to the Planning Unit.

**Adjournment of Meeting**

The Chairman declared an adjournment at 5.40 pm

**Resumption of Meeting**

The Chairman declared the meeting resumed at 6.07 pm.

(3) LA05/2015/0345/F – Local (Called in) (Previously deferred for a site visit) – 3 no new detached dwellings with associated siteworks and landscaping at 16 Dromore Road, Hillsborough.

The Senior Planning Officer (AS) presented this application as outlined within the circulated report highlighting that this application had previously been deferred pending a site meeting.

The Committee received Mr Sam McKee who wished to speak in support of the application highlighting the following:

- He advised of the history of applications re the site.
- There were no objections from Statutory Consultees.
- The original application had included an apartment block and since it had been removed there had been a drop in the number of objections.
- The height is consistent with adjacent developments and it was level with the public road.
- There were glimpse views of gables.
- The proposal should be viewed in light of extant approvals.
- There were no overlooking issues as these had been mitigated in the design.
- There was no established build line.
- He provided clarification on separation distances which were proposed.
- Second floor windows were in the roof.
- This was an urban development in context.
- Landscaping and larger than average gardens formed part of the scheme.
The development would make a positive contribution to the area.
The development allows for this land to be recycled.
It was considered that all policy requirements have been met.

There then followed a question and answer session focusing on the above.

The Committee received Mr Edwin Poots MLA who wished to speak in support of the application highlighting the following:

• These were modest dwellings given the context.
• Currently there was no consistent building line.
• There was one extremely large adjacent dwelling.
• Local housing was a mix of types and sizes – he gave examples.
• The site was level to the Dromore Road and others were elevated.
• He did not understand the recommendation.
• The dwellings were not incongruous.
• Creating Places requirements have been met.
• He highlighted the length of time this application had been in the system.

There then followed a question and answer session focusing on the above.

At the culmination of further discussion and ensuing debate, the decision was put to a vote and by a majority of 4:4 with 1 abstention with the Chairman having the casting vote. He voted against the recommendation thus resulting in a vote of 4:5 with 1 abstention and it was therefore agreed that the recommendation of the Planning Officer would not be upheld.

The Chairman stated that the Professional Officer's recommendation to refuse planning permission had fallen and that a new motion was now under consideration.

It was then proposed by Councillor N Anderson, seconded by Alderman J Dillon and by a majority of 4:4 with 0 abstentions with the Chairman having the casting vote. He voted in favour of the proposal thus resulting in a vote of 5:4 with 1 abstention to agree that the reasons cited for the approval of the application would be:

• that the Committee consider on balance that the proposal is not out of character with the area.
• that the Committee consider there is sufficient landscaping and that density is no greater than in other developments in the immediate area.
• that the Committee consider that ridge height and overlooking issues have been addressed by the applicant.

It was then proposed by Councillor N Anderson, seconded by the Chairman Councillor L Poots and put to a vote that the above Planning Application be declared approved and by a majority of 4:4 with 0 abstentions with the Chairman having the casting vote. He voted in favour of the proposal thus resulting in a vote of 5:4 with 1 abstention in favour of the proposal and the Chairman therefore declared the application approved.
The Chairman then highlighted that because the application had been recommended for refusal, no conditions had been drafted. It was proposed by Alderman J Dillon, seconded by Councillor N Anderson and agreed by the Committee that the drafting of Conditions be delegated to the Planning Unit.

(Alderman D Drysdale left the meeting at 6.56 pm and returned at 7.05 pm)

(7) LA05/2017/0666/O – Local (Called in) – Proposed site for 2 detached dwellings on lands located between nos 1, 2 and 7 Upper Mealough Road, Carryduff.

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

The Committee received Mrs S Davidson who wished to speak in in support of the application highlighting the following:

- The long history behind the application.
- An identical application had been submitted in 2014.
- She outlined that she had appealed this decision and the appeal had not been upheld.
- She advised that the continuous frontage had been the issue as it pertained to No 2.
- She found the Commissioner's ruling to be unacceptable and had decided to re-submit the application.
- She gave examples of other rulings which would provide support for her application.
- She outlined ambiguity within the relevant policy.
- She said she was grateful for the opportunity to address the committee as their decision would have a huge bearing on her family.

There then followed a question and answer session focusing on the above.

At the culmination of further discussion and ensuing debate, the decision was put to a vote and by a majority of 3:5 with 0 abstentions it was agreed that the recommendation of the Planning Officer would not be upheld.

The Chairman stated that the Professional Officer's recommendation to refuse planning permission had fallen and that a new motion was now under consideration.

It was then proposed by Councillor U Mackin, seconded by Councillor N Anderson and by a majority of 5:3 with 0 abstentions it was agreed that the reasons cited for the approval of the application would be:

- that the committee considers that the application complies with CTY1 and CTY8 a there was an infill opportunity.

It was then proposed by Councillor U Mackin, seconded by the Councillor N Trimble and agreed by a majority of 5:3 with 0 abstentions that the application be approved.
The Chairman then highlighted that because the application had been recommended for refusal, no conditions had been drafted. It was agreed by the Committee that the drafting of Conditions be delegated to the Planning Unit.

Adjournment of Meeting

The Chairman declared an adjournment at 7.20 pm

Resumption of Meeting

The Chairman declared the meeting resumed at 7.30 pm. (Councillor U Mackin did not return to the meeting).

(8) LA05/2017/0710/O – Local (Called in) – Proposed dwelling and garage as per PPS 21 CTY 8 on lands adjacent to and immediately north of 6 Edentrillick Hill, Hillsborough.

The Chairman advised and it was noted that this item had been withdrawn from the schedule on request from the agent.

(4) LA05/2016/1111/O – Local (Previously Deferred) – Bungalow and garage on a site adjacent to 20 Bridge Road, Moira.

The Senior Planning Officer (AS) presented this application as outlined within the circulated report.

The Committee received Mr Bruce Wylie who wished to speak in support of the application highlighting the following:

- He had provided medical letters outlining his health issues.
- CTY6 permitted such development if long-term medical evidence was provided.
- He outlined his medical and mobility issues.
- Regarding CTY13 and CTY14, the proposed development would not be a prominent feature on the landscape nor would it adversely affect it.
- This development would not lead to ribbon development as it was down a private lane parallel to a main road.

There then followed a question and answer session focusing on the above.

At the culmination of further discussion and ensuing debate, the decision was put to a vote and by a majority of 2:4 with 2 abstentions it was agreed that the recommendation of the Planning Officer would not be upheld.

The Chairman stated that the Professional Officer's recommendation to refuse planning permission had fallen and that a new motion was now under consideration.
It was then proposed by Councillor N Trimble, seconded by Alderman J Dillon and by a majority of 4:2 with 2 abstentions it was agreed that the reasons cited for the approval of the application would be:

- that the Committee consider that, given the personal circumstances and size of the proposed dwelling it should be approved as it sought to progress proposals that would improve the health and wellbeing of local communities and help build a strong and shared society.
- That the Committee believe that it has received sufficient evidence to accede to the approval of the application

It was then proposed by Alderman J Dillon, seconded by the Councillor N Trimble and agreed by a majority of 4:4 with 2 abstentions that the application be approved.

The Chairman then highlighted that because the application had been recommended for refusal, no conditions had been drafted. It was agreed by the Committee that the drafting of Conditions be delegated to the Planning Unit.

(Alderman J Dillon left the meeting at 8.06 pm and did not return)

(Councillor J Craig left the meeting at 8.06 pm having declared an interest in the next application).

(5) LA05/2017/0552/F – Local (Called in) – Application under Section 54 of the 2011 Planning Act to vary condition No 8 (ridge height) of planning approval LA05/2016/0692/O adjacent to 128 Ballynahinch Road, Carryduff, Belfast.

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

The Committee received Mr R Burnside who wished to speak in support of the application highlighting the following:

- The road was very fast and the distance between the houses was 150m, given this you would not be able to view the ridge height.
- He highlighted a number of anomalies in ridge height requirements by the Planning Unit in the Lisburn & Castlereagh Council area.

There then followed a question and answer session focusing on the above.

The Committee received Mr Edwin Poots MLA who wished to speak in support of the application highlighting the following:

- This application should not have come before the committee, it should have been a straightforward approval.
- There were serious inconsistencies in respect of ridge height requirements by the Planning Unit.
• There was no logic to this restriction as it had not been applied to other houses on the road.
• This issue could have been dealt with by a discussion between the Planning Officer and the Agent.

There then followed a question and answer session focusing on the above.

At the culmination of further discussion and ensuing debate, the decision was put to a vote and it was unanimously agreed that the recommendation of the Planning Officer would not be upheld.

The Chairman stated that the Professional Officer's recommendation to refuse planning permission had fallen and that a new motion was now under consideration.

It was then proposed by Councillor N Anderson, seconded by Councillor N Trimble and by a unanimous vote it was agreed that the reasons cited for the approval of the application would be:

• That given the circumstances and precedent it was considered that the ridge height had already been established.

It was then proposed by Councillor N Trimble, seconded by the Councillor N Anderson and agreed by a unanimous vote that the application be approved.

Councillor Craig was unable to vote due to having declared an interest in this application.

The Chairman then highlighted that because the application had been recommended for refusal, no conditions had been drafted. It was agreed by the Committee that the drafting of Conditions be delegated to the Planning Unit.

(Councillor J Craig returned to the meeting at 8.30 pm).

**Items for Noting**

5.2 Department for Infrastructure – Roadway Adoption Certificates

Members noted information pertaining to the following Roadway Adoption Certificates:

Governors Bridge Road, Lisburn
Millreagh Court, Stage 1
Millreagh Court, Stage 2
Millreagh Heights, Stage 5
Millreagh Avenue, Stage 6.
5.3 Planning Appeal Decisions as at 23 November 2017

Members noted appeal decisions as advised in respect of the following appeals:

LA05/2015/0916/F which was allowed
LA05/2016/0291/F which was dismissed.

5.4 Correspondence from the Department for Infrastructure.

5.4.1 Members noted correspondence dated 13 November 2017 in respect of direction with regard to consulting with the Department in relation to applications for major development; and

5.4.2 Members noted correspondence dated 15 August 2017 in respect of a Decision Notice regarding Planning Permission for S/2011/0659/F at Site 5 Pond Park East, Lisburn BT28 3RQ.

5.5 Budget Report – Planning Unit

Members noted information within a copy of the summary Budget Report for the Planning Unit for the year to 31 March 2018 as at 31 October 2017.

6. Any Other Business

1. Update on Planning Portal
   Lead Head of Planning

The Lead Head of Planning provided an update on the status of the new Planning Portal and after some discussion it was agreed that the Lead Head of Planning do the following:

   (a) ask the Chief Executive’s Department to circulate the Report from P Rice when it becomes available; and

   (b) arrange for Members to receive any information or training which might be organised by NILGA in respect of the Planning Portal.

2. Request from the NI Local Government Commissioner for Standards
   Lead Head of Planning

The Lead Head of Planning advised that an approach had been made to the Chief Executive by the Commissioner seeking permission to make a presentation at a future meeting of the Committee.

There was some further discussion on how best to progress this matter after which it was agreed that an email be issued to Members by the Lead Head of Planning inviting comments from them on what issues they wished to highlight to the
Commissioner so that all concerns, including those of the Legal Advisor, can be addressed by the Commissioner.

(During the above discussion, the Senior Planning Officers (AS and MB) left the meeting at 8.45 pm).

3. Farm Access Enforcement Issues
   Councillor N Anderson

Councillor N Anderson raised some enforcement issues in respect of farm accesses which the Lead Head of Planning undertook to investigate and respond to.

4. Election Posters
   Councillor N Anderson

Councillor N Anderson raised some general issues regarding election posters which were responded to by the Principal Planning Officer (RH) who also undertook to check and confirm that her information was accurate.

'In Committee'

It was proposed by the Chairman, Councillor L Poots, seconded by Councillor N Trimble and agreed that the following items be considered ‘In Committee’, in the absence of press and public being present.

The Legal Advisor left the meeting at 8.49 pm

5. Election Posters
   Councillor N Anderson

It was noted that this item was confidential for reason of information relating to any individual; information which is likely to reveal the identity of an individual.

Councillor Anderson highlighted that he had received complaints from constituents that election posters had been erected in the area he represents. He provided the Principal Planning Officer with specific information and she undertook to refer this to the Enforcement Team.

6. Declarations of Interest / Queries from Member of the Public
   Councillor N Trimble

It was noted that this item was Confidential due to being information in relation to which a claim to legal professional privilege could be maintained in legal proceedings.

In response to a question from Councillor N Trimble there was some information sharing on how best to deal with the subject of Declarations of Interest by Members of the
Committee in the event that they called in an application and on how best to respond to queries by members of the public regarding Planning Applications.

**Resumption of Normal Business**

It was proposed by Councillor N Trimble seconded by Alderman D Drysdale and agreed to come out of committee and normal business was resumed.

There being no further business, the meeting concluded at 9.00 pm.

____________________________________
CHAIRMAN / MAYOR
LISBURN & CASTLEREAGH CITY COUNCIL
MEETING OF THE PLANNING COMMITTEE – 8 JANUARY 2018

REPORT BY THE LEAD HEAD OF PLANNING

PURPOSE AND BACKGROUND

The purpose of this report is to set out for Members’ consideration a number of Planning Matters.

The following decisions are required:

1. To consider the Schedule of Applications to be determined
2. To consider information from NILGA regarding a Planning Portal Information Morning
3. To note the Planning Appeals Commission decisions as at 20 December 2017
4. To note information regarding NI Planning Statistics 2017/18 second quarterly statistical bulletin
5. To note update information regarding the new Planning IT System project
7. To note information regarding the budget report for the Planning Unit

ITEMS FOR DECISION

1. SCHEDULE OF APPLICATIONS TO BE DETERMINED

1.1 LA05/2017/0330/RM – Major Application – Demolition of existing buildings and erection of mixed use development including guest house, equestrian facilities and 2 no. replacement dwellings on lands bounded by Hillsborough Road, Lisburn Road and Sandringham Court, Hillsborough. Attached at APPENDIX 1.1 is a copy of the report together with a location map in relation to this application

Recommendation

It is recommended that the Committee considers the report from the Planning Unit and determines whether planning permission should be Approved for the reasons outlined in the Officer’s report.

1.2 LA05/2017/0428/F – Major Application – Erection of 53 no. dwellings (comprising detached, semi-detached and townhouse dwellings), with garages, landscaping, access and other associated site works on lands immediately adjacent to and north-east of 21 & 30 Glebe Park, Aughnafosker, Moira. Attached at APPENDIX 1.2 is a copy of the report together with a location map in relation to this application

Recommendation

It is recommended that the Committee considers the report from the Planning Unit and determines whether planning permission should be Approved for the reasons outlined in the Officer’s report.
1.3 **S/2014/0398/F – Local Application** – Erection of 9 dwellings (Amended plans) at 15 Rathfriland Road, Dromara. Attached at [APPENDIX 1.3](#) is a copy of the report together with a location map in relation to this application

**Recommendation**

It is recommended that the Committee considers the report from the Planning Unit and determines whether planning permission should be **Refused** for the reasons outlined in the Officer’s report.

1.4 **LA05/2016/0565/O – Local Application** – Proposed dwelling on in-fill site between 4 & 4a Windmill Road, Hillsborough. Attached at [APPENDIX 1.4](#) is a copy of the report together with a location map in relation to this application

**Recommendation**

It is recommended that the Committee considers the report from the Planning Unit and determines whether planning permission should be **Refused** for the reasons outlined in the Officer’s report.

1.5 **LA05/2016/0721/O – Local Application** – Erection of detached dwelling to rear garden of existing dwelling, with access via shared driveway at 176 Saintfield Road, Belfast. Attached at [APPENDIX 1.5](#) is a copy of the report together with a location map in relation to this application

**Recommendation**

It is recommended that the Committee considers the report from the Planning Unit and determines whether planning permission should be **Refused** for the reasons outlined in the Officer’s report.

1.6 **LA05/2017/0472/O – Local Application** – Outline planning application for 2 infill dwellings, garages and associated site works on lands between 20 and 26 Windmill Road. Attached at [APPENDIX 1.6](#) is a copy of the report together with a location map in relation to this application

**Recommendation**

It is recommended that the Committee considers the report from the Planning Unit and determines whether planning permission should be **Refused** for the reasons outlined in the Officer’s report.

1.7 **LA05/2017/0698/O – Local Application** – 1 no. dwelling and garage including vehicular access (under policy CTY10 and Policy CTY2a of PPS21) (Amended plans) on lands south east of 120 Pond Park Road, Lisburn. Attached at [APPENDIX 1.7](#) is a copy of the report together with a location map in relation to this application
Recommendation

It is recommended that the Committee considers the report from the Planning Unit and determines whether planning permission should be Refused for the reasons outlined in the Officer’s report.

1.8 LA05/2017/0710/O – Local Application – Proposed dwelling and garage on lands adjacent to 6 Edentrillick Hill, Hillsborough. Attached at APPENDIX 1.8 is a copy of the report together with a location map in relation to this application

Recommendation

It is recommended that the Committee considers the report from the Planning Unit and determines whether planning permission should be Refused for the reasons outlined in the Officer’s report.

2. NILGA PLANNING PORTAL TRAINING INFORMATION

Attached at APPENDIX 2(a) is an invitation from NILGA to a Planning Portal information morning on Monday 23 January 2018 in the Coleraine offices of Causeway Coast and Glens Borough Council. Members will receive an update on the business case and a summary of the process to date. The invitation is open to all Members of the Committee.

Also attached at APPENDIX 2(b) is a written update received from DfI Planning Policy Division which will help set the scene in relation to the new Planning IT System.

Recommendation

It is recommended that the Committee consider this information and agree who should attend the Planning Portal Information Morning.

ITEMS FOR NOTING

3. PLANNING APPEAL DECISIONS AS AT 20 December 2017

(a) Attached at APPENDIX 3(a) is a Planning Appeals Decision dated 12 December 2017 regarding planning application LA05/2016/0317/O for a Manager’s dwelling at 27A Divis Road, Belfast. The appeal was dismissed.

(b) Attached at APPENDIX 3(b) is a Planning Appeals Decision dated 18 December 2017 regarding planning application LA05/2016/0317/O for the Erection of 1No. dwelling and garage adjacent to No. 284 Ballynahinch Road, Annahilt. The appeal was dismissed.

Recommendation

It is recommended that the Committee notes the appeal decisions.
4. **NORTHERN IRELAND PLANNING STATISTICS 2017/18 SECOND QUARTER STATISTICAL BULLETIN**

The Department for Infrastructure NI Planning Statistics 2017/18 Second Quarter Statistical Bulletin has been published. The publication presents a summary of NI planning volumes and processing performance for Councils in Quarter 2.

A copy of the documents can be accessed via the link:


**Recommendation**

It is recommended that the Committee note this information.

5. **DEVELOPMENT MANAGEMENT PRACTICE NOTE 24 – SECTION 54 APPLICATIONS**

Attached at **APPENDIX 4** is Development Management Practice Note 24 – Section 54 Applications. The note is designed to guide planning officers and others in the planning system through the legislative requirements associated with applications for planning permission for the development of land without complying with conditions previously attached to a grant of planning permission.

**Recommendation**

It is recommended that the Committee note this information.

6. **BUDGET REPORT - PLANNING UNIT**

Attached at **APPENDIX 5** for the information of Members is a copy of the summary Budget Report for the Planning Unit for the year to 31 March 2018 as at 30 November 2017.

**Recommendation**

It is recommended that the Committee note this information.

**IAN WILSON**  
**LEAD HEAD OF PLANNING**  
21 December 2017
Lisburn & Castlereagh City Council

<table>
<thead>
<tr>
<th>Council/Committee</th>
<th>Planning Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Committee Meeting</td>
<td>8 January 2018</td>
</tr>
<tr>
<td>Committee Interest</td>
<td>Major Application</td>
</tr>
<tr>
<td>Application Reference</td>
<td>LA05/2017/0330/RM</td>
</tr>
<tr>
<td>Date of Application</td>
<td>30 March 2017</td>
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<tr>
<td>District Electoral Area</td>
<td>Downshire West</td>
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<tr>
<td>Proposal Description</td>
<td>Demolition of existing buildings and erection of mixed use development including guest house, equestrian facilities and 2no replacement dwellings</td>
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<tr>
<td>Location</td>
<td>Lands bounded by Hillsborough Road, Lisburn Road and Sandringham Court, Hillsborough.</td>
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<tr>
<td>Applicant/Agent</td>
<td>Mr and Mrs Nelson / MBA Planning</td>
</tr>
<tr>
<td>Representations</td>
<td>4 letters of objections received</td>
</tr>
<tr>
<td>Case Officer</td>
<td>Mark Burns</td>
</tr>
<tr>
<td>Recommendation</td>
<td>APPROVAL</td>
</tr>
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</table>

**Summary of Recommendation**

1. This application is categorised as a major planning application in accordance with the Development Management Regulations 2015 in that the area of the site exceeds 1 hectare.

2. The application is presented to the Planning Committee with a recommendation to Approve.

**Description of Site and Surroundings**

3. The site is located outside Hillsborough and within the countryside as identified in both the Lisburn Area Plan and draft BMAP. It application site is rectangular in shape and measures approx. 3.7 hectares. The topography of
the site is undulating throughout and the North East and North West boundaries are defined by interspersed mature trees and hedging.

4. A residential development known as Sandringham Court abuts the south west boundary of the site

**Proposed Development**

5. The application seeks reserved matters approval for the demolition of existing buildings and erection of mixed use development including guest house, equestrian facilities and 2 no replacement dwellings.

**Relevant Planning History**

6. The relevant planning history includes the following

<table>
<thead>
<tr>
<th>Application Reference</th>
<th>Description of Proposal</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>S/2010/1024/F</td>
<td>Erection of 2 replacement dwellings</td>
<td>Approval</td>
</tr>
<tr>
<td>S/2012/0472/O</td>
<td>Demolition of existing buildings and erection of mixed use development including guest house, equestrian facilities and 2 no replacement dwellings</td>
<td>Approval</td>
</tr>
</tbody>
</table>

**Planning Policy Context**

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

- Regional Development Strategy (RDS) 2035
- Local Development Plan (LDP)
- Draft Belfast Metropolitan Area Plan (dBmap) 2015
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 3 (PPS3) – Access, Movement and Parking
- Planning Policy Statement 8 (PPS 8): Open Space, Sport and Outdoor Recreation
- Planning Policy Statement 16 – Tourism
- Planning Policy Statement 21 – Sustainable Development in the Countryside
Consultations

8. The following consultations were carried out

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transport NI</td>
<td>No objections subject to conditions</td>
</tr>
<tr>
<td>NI Water</td>
<td>No objections</td>
</tr>
<tr>
<td>LCCC Environmental Health</td>
<td>No objections subject to conditions</td>
</tr>
</tbody>
</table>

Representations

9. Two letters of objection were received in relation to the proposal. The following issues were raised:
   - Traffic
   - Car parking
   - Noise / Nuisance Disturbance
   - Floodlighting

Consideration and Assessment

10. The main issues to consider in the determination of this planning application are:
    - Principle of Development
    - Development in the Countryside
    - Access, Movement and Parking
    - Consideration of Siting, Design and Appearance
    - Landscaping Considerations
    - Open Space, Sport and Outdoor Recreation
    - Residential Amenity

Principle of Development

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

12. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan 2015 had, in its entirety not been lawfully adopted. As a consequence of this decision, the application must now be assessed in accordance with the Lisburn Area Plan 2001 (LAP) as the statutory plan.
However, draft BMAP and its policy considerations remains a material consideration.

13. Whilst the main body of the site is identified in LAP 2001 and draft BMAP as being outside the settlement development limit the principle of the development at this location was approved at the outline stage within the context of planning application S/2012/0472/O. The tourism case put forward was considered and accepted by the Department of Environment as planning authority.

**Strategic Planning Policy Statement**

14. The Strategic Planning Policy Statement (SPPS) published in September 2015 states that until the Council adopts the Plan Strategy for its new Local Development Plan there will be a transitional period in operation. During this period planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.

15. The SPPS indicates 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.

16. 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.

**Development in the Countryside**

17. CTY1 states that Planning Permission will be granted for non-residential development in the countryside in certain cases, in this instance it refers to tourism development in accordance with PPS 16 – tourism. As mentioned above, the principle of the development was considered at outline stage within the context of planning application S/2012/0472/O and was found to be acceptable.

18. This reserved matters application deals with access and parking provisions, siting, design and external finishes and landscaping. Further commentary is provided in relation to open space and residential amenity considerations.

**Access, Movement and Parking**

19. Planning Policy Statement 3 – Access Movement and Parking sets out policies for vehicular and pedestrian access, transport assessment, 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 commitments to the provision of a modern, safe, sustainable transport system.

20. Policy AMP1 of PPS3 – Creating an Accessible Environment, aims to create an accessible environment for everyone.

21. Policy AMP7 of PPS3 – Car Parking and Servicing Arrangements, requires proposals to provide adequate provision for car parking and appropriate servicing arrangements.

22. Detail associated with the application indicates that an existing entrance close to Carnreagh is to be used to serve the proposed development.

23. Drawings indicated that 44 parking spaces will be provided to serve the guest house and equestrian facility and a further 6 spaces will be provided to serve the 2 replacement dwellings.

24. Transport NI were consulted in relation to this proposal and confirmed that they were satisfied the proposed layout provides a safe and convenient road system.

25. A number of conditions have been recommended in order to ensure that there is a satisfactory means of access in the interests of road safety and the convenience of road users.

26. It is therefore contended that that the application as presented will provide adequate provision for parking and circulating within the site.

Consideration of Siting, Design and Appearance

27. In terms of the site layout it is contended that this proposal is acceptable when compared with other buildings in its immediate vicinity. The surrounding area is characterised by countryside to the North, east and West and a residential development at Sandringham Court is to the South West.

28. The proposed design and layout of the proposal seeks to enhance that of the overall area.

29. The 2 storey, 20 bedroom Guest House is to be located on the northern portion of the site, and will include dining facilities. The building is approx. 10.5 metres in height and the materials to be used in the construction include rubbed up sand cement render walls, blue grey slates, hardwood paint finished windows and black aluminium down pipes and gutters.

30. The Equestrian facilities are located on the southern portion of the site and include a stable block, a barn, paddocks, training area and an administration building.
31. The stable block is approximately 52 metres by 19 metres and 4.5 metres in height and the materials to be used in the construction include redwood shiplap boarding finished in a natural colour, a cedar shingle and redwood doors and windows. The building will include 20 individual stables a tack rook, a laundry and solarium / clinic room.

32. The barn is approximately 29 metres X 11 metres and 4.5 metres in height. The materials to be used in the construction of the building include masonry concrete block wall finished in a smooth render and single skin green corrugated sheeting. The roof will be made from single skin corrugated sheeting. The building will store manure, feed, bedding and mucking out equipment.

33. The administration building is located at the entrance to the proposal. It measures approximately 20 metres by 6 metres and has a 2 storey rear return. The materials to be used in the construction of this building include sand/cement render walls with randomly built Mourne granite, blue/grey roof slates, hardwood windows and black aluminium downpipes. This building will contain the manager’s office, events/training room, administration room and a saddlers/refreshment shop.

**Landscaping Considerations**

34. With regard to landscaping considerations, a detailed landscape plan has been submitted with the application. It indicates that all existing landscaping is to be retained and augmented on all boundaries and that this will include extra heavy standard trees, native hedge planting and mixed woodland planting.

35. It is contended that this additional planting is acceptable and serve to further screen the site from any potential views.

**Open Space, Sport and Outdoor Recreation**

36. PPS 8 – Open Space, Sport and Outdoor Recreation sets out the planning policy for the protection of open space, the provision of new areas of open space in association with residential development and the use of land for sport and outdoor recreation. The policy embodies the Government’s commitment to sustainable development, to the promotion of a more active and healthy lifestyle and to the conservation of biodiversity.

37. Policy OS 3 - Outdoor Recreation in the Countryside states development of proposals for outdoor recreational use in the countryside will be permitted where a number of criteria are met.

38. The site is not located within an area of archaeological importance, nature conservation or built heritage designation and as such, it is contended that the will be no adverse impacts on features of importance to nature conservation, archaeology or built heritage.
39. Given the existing and proposed landscaping of the site, views of the proposal are limited. It is therefore considered that no adverse impacts shall arise in respect of visual amenity.

40. With regard to amenity considerations, Noise and Odour assessments were submitted by the applicant as part of the outline application process. The detail associated with these reports was considered to be acceptable to Environmental Health. It is therefore considered that no unacceptable impacts shall arise in respect of neighbouring residents in terms of loss of amenity.

41. It is also noted that the proposal will not include any floodlighting, therefore Environmental Health are satisfied that the adjacent properties will not be adversely impacted by light trespass from the proposal.

42. In terms of road network considerations within the context of outdoor recreation developments, the existing access to the site is to be used and adequate car parking has been provided for all the elements of the proposal. The existing road network and car parking is therefore considered to be adequate, TransportNI have been consulted and have no objections.

43. Residential Amenity

44. Kensington Court is situated adjacent to the western boundary of the site and it is defined by existing heavy standard trees, mixed woodland planting and a post and wire fence.

45. The agent has submitted Noise and Odour assessments. These reports assessed the impact of potential noise and odour sources associated with the guesthouse and equestrian centre on existing and approved dwellings.

46. Environmental Health were consulted with these reports and they have no objections to the proposal subject to conditions including one restricting the use of the paddock and training areas to 0700 – 2100 Monday to Saturday and 0900 - 2100 Sunday.

47. A lighting impact assessment report has also been submitted with the application. Floodlighting is not proposed with this application however the application proposes 6 metre lighting lanterns which will illuminate public footpaths and Road ways.

48. The closest lantern to the residential properties in Kensington is approx. 50 metres away and the site lighting drawing and report demonstrates that the lanterns will direct light away from the existing residential properties and as such, they will not have a detrimental impact on amenity nor will they impact on the character of the areas.
49. It is therefore contended that the application will not have a detrimental impact on the amenity of existing residential properties

**Replacement dwellings**

50. Two replacement dwellings are proposed within the central portion of the site and these have previously been approved within the context of planning applications S/2010/1024/F and again under the outline application associated with this reserved matters S/2012/0472/O.

51. The replacement dwellings are to be 2 storey in height and have a wet dash render finish and a natural slate roof. The windows are to be hardwood sliding sash and the guttering’s and downpipes are to be black cast aluminium. These materials are the same as previously approved and within the context of this application re again acceptable.

52. It is therefore contended that the layout, design and materials of the proposed replacements are appropriate at this location and will not have detrimental impact on the character of the area.

**Consideration of Representations**

53. Four letters of objection were received. The following issues were raised:

   **Information not included at outline stage**

54. The objection raised the issue that the saddlery/refreshment shop was not included in the original outline proposal. However although not specifically indicated on the drawing it is clear that at outline stage the layout was approved to include the administration building and the details of the internal layout of this building were not required until Reserved Matters Stage. It is contended that the saddlery/refreshment shop is ancillary to the overall development and can be determined under this reserved matters application.

   **Traffic / Car Parking**

55. The accuracy of the P1 form in terms of the number of vehicles using the site daily was questioned. The concern was relayed to the agent and the form was updated accordingly to ensure that the information was accurate. Transport NI were consulted with the new information and had no objection subject to conditions.

56. The objector had raised concerns in relation to noise and odour from the proposal, and the potential impact on adjacent residential properties. A noise assessment and odour management plan was submitted by the agent. The details of the report were considered by Environmental Health who have no objection to the proposal subject to conditions.
Floodlighting

57. An objection raised concerns about floodlighting. The Agent has however confirmed that no floodlighting is proposed. Street lighting is proposed to walkways and car parks, and is detailed in a light assessment submitted by agent. Environmental Health have considered this report and have no objections subject to conditions.

Conclusions

58. Having considered the nature of the proposal against all the relevant planning policies and material considerations, including the status of this site within the up to date LDP, and consultation responses, it is considered that the application satisfies all the key policy requirements.

Recommendations

59. It is recommended that the reserved matters application is approved, subject to conditions.

Conditions

60. The following conditions are recommended:

- The development to which this approval relates must be begun by whichever is the later of the following dates:-
  - The expiration of a period of 5 years from the grant of outline planning permission; or
  - The expiration of a period of 2 years from the date hereof.

  **Reason:** As required by Section 62 of the Planning Act (Northern Ireland) 2011.

- The vehicular access, including any visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 16-36-03 Rev. B, bearing the date stamp 25 September 2017, prior to the commencement of any other works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

  **Reason:** To ensure there is a satisfactory means of access in the interest of road safety and the convenience of road users.

- The access gradient to the development hereby permitted shall not exceed 4% (1 in 25) over the first 10 m outside the road boundary. Where
the vehicular access crosses footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway. **Reason:** To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

- No dwelling, retailing or other operation in or from any building hereby permitted shall be occupied until hard surfaced areas have been constructed in accordance with approved drawing no. 16-36-03 Rev. B, bearing date stamp 25 September 2017 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles. **Reason:** To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

- Any existing street furniture or landscaping obscuring or located within the proposed carriageway, sight visibility splays, forward sight lines or access shall, after obtaining permission from the appropriate authority, be removed, relocated or adjusted at the applicant’s expense. **Reason:** In the interest of road safety and the convenience of road users.

- Any artificial lighting to the development must minimise obtrusive light and conform to the requirements of the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone – E2 (Rural) contained within Table 2 of the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2011. For the purpose of permissible light levels curfew hours are 22:00-07:00. **Reason:** To protect the amenity of neighbouring dwellings with respect to obtrusive light

- As detailed in the Noise Assessment dated 15 March 2017 the proposal should not include a PA or speaker system. **Reason:** To protect the amenity of neighbouring dwellings with respect to noise

- To ensure odour from the proposed equestrian facilities does not cause an adverse impact at the adjacent dwelling, development should be carried out in strict accordance with the odour management measures outlined in the Noise Assessment and Odour Management Plan dated 15 March 2017. In addition, the floor of the manure store should be constructed of a suitable hard standing. **Reason:** To protect the amenity of neighbouring dwellings with respect to odour

- Use of the paddock and training area should be restricted to 0700 – 2100 Monday to Saturday and 0900 - 2100 Sunday. **Reason:** To protect the amenity of neighbouring dwellings with respect to noise
Within the replacement dwellings the window systems and acoustically attenuated mechanical ventilation to be installed to all habitable rooms should have as a minimum an $R_{TRA}$ of 32dB, $R_w$ of 35dB. The inlet for all ventilation systems should be downward facing and acoustically treated. **Reason:** To provide internal noise levels in line with within BS8233.

Within the guest house the window systems and acoustically attenuated mechanical ventilation to be installed to all habitable rooms should have as a minimum an $R_{TRA}$ of 32dB, $R_w$ of 35dB. The inlet for all ventilation systems should be downward facing and acoustically treated. **Reason:** To provide internal noise levels in line with within BS8233.

All hard and soft landscape works shall be carried out in accordance with drawing No. 4 bearing the Lisburn & Castlereagh City Council date stamp 30 March 2017 and the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out during the 1st available planting season after occupation of the dwellings/buildings hereby approved. **Reason:** To ensure the provision, establishment and maintenance of a high standard of landscape.

If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation. **Reason:** To ensure the provision, establishment and maintenance of a high standard of landscape.
Site Location LA05/2017/0330/RM
## Summary of Recommendation

1. This application is categorised as a major planning application in accordance with the Development Management Regulations 2015 in that the development comprises 50 units or more and the area of the site exceeds 2 hectares.

2. The application is presented to the Planning Committee with a recommendation to approve.

## Description of Site and Surroundings

3. The application site measures approximately 2.26 hectares in size and lies between the existing Claremont Crescent development to the East and the existing development in Glebe Park, Glebe Way and Magherahinch Road to the west and south.
4. The topography of the site is undulating with a north to south slope. The site consists of agricultural land and is bounded by vegetation and hedging along all the boundaries and some fencing. The site is split into two fields, a smaller one to the north and a larger one on the remainder of the site to the south. There a 6-7m high band of trees along the boundary of both fields.

5. The area is characterised as residential with developments to the east, south and west of this proposed site.

**Proposed Development**

6. The development is for the erection of 53 no. dwellings (comprising detached, semi-detached and townhouse dwellings), with garages, open space, landscaping, access and other associated site works.

**Relevant Planning History**

7. The relevant planning history includes the following

<table>
<thead>
<tr>
<th>Application Reference</th>
<th>Description of Proposal</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>S/1977/0680</td>
<td>Housing</td>
<td>Refused 8 September 1978</td>
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<tr>
<td>S/1981/0306</td>
<td>Housing</td>
<td>Refused 19 January 1982</td>
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<td>S/2001/1459</td>
<td>Request for Tree Preservation Order</td>
<td>Granted 18 August 2011</td>
</tr>
<tr>
<td>S/2002/0207/Q</td>
<td>Proposed residential development</td>
<td>Pre-Application Enquiry</td>
</tr>
<tr>
<td>LA05/2017/0032/PAN</td>
<td>Erection of 53 no. dwellings (compromising detached, semi-detached and townhouse dwellings) with garages, open space, landscaping, access and associated site works.</td>
<td>PAN is acceptable</td>
</tr>
</tbody>
</table>

**Planning Policy Context**

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

- Regional Development Strategy (RDS) 2035
- Local Development Plan (Lisburn Area Plan 2001 and Draft Belfast Metropolitan Area Plan (BMAP) 2015);
- Strategic Planning Policy Statement for Northern Ireland (SPPS) - Planning for Sustainable Development
- Planning Policy Statement (PPS) 2 - Natural Heritage.
- Planning Policy Statement (PPS) 3 - Access, Movement and Parking
- Planning Policy Statement (PPS) 7 - Quality Residential Environments
- Planning Policy Statement (PPS) 6 – Planning, Archaeology and the Built Heritage
- Planning Policy Statement (PPS) 8 - Open Space, Sport and Outdoor Recreation
- Planning Policy Statement (PPS) 15 Planning and Flood Risk

### Consultations

9. The following consultations were carried out

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transport NI</td>
<td>No objections subject to conditions re streets and parking layouts.</td>
</tr>
<tr>
<td>NI Water</td>
<td>No objections subject to informatives re connection to sewerage and water infrastructure.</td>
</tr>
<tr>
<td>NIEA Natural Heritage</td>
<td>No objection subject to informatives</td>
</tr>
<tr>
<td>NIEA Water management</td>
<td>No objections subject to informatives and agreement of NI water to connect to main sewers.</td>
</tr>
<tr>
<td>Environmental Health</td>
<td>No objections subject to informatives.</td>
</tr>
<tr>
<td>NIEA Land Soil and Air</td>
<td>No objections subject to conditions re new contamination identified during development works</td>
</tr>
<tr>
<td>Historic Environment Division</td>
<td>No objections subject to conditions re landscaping and finishes</td>
</tr>
<tr>
<td>Rivers Agency</td>
<td>No schedule 6 to discharge required</td>
</tr>
</tbody>
</table>

### Representations

10. No representations have been made in respect of this application.

### Consideration and Assessment

11. The main issues to consider in the determination of this planning application are:

- Principle of Development
- Access, Movement and Parking
- Quality Residential Environments
  - Impact on Character of Area
  - Residential amenity
  - Layout / Design / Materials
  - Landscaping
- Public Open Space
- Natural Heritage Considerations
- Archaeology and Built Heritage
- Contamination
- Water & Sewerage Infrastructure
- Flood Risk
Principle of Development

12. The adopted BMAP 2015 was quashed by a judgement of the Courts on the 18th May 2017, as a consequence the Lisburn Area Plan 2001 is now the statutory up to date LDP. Draft BMAP remains a material consideration. This site lies within Housing Zoning MA1 of the Lisburn Area Plan 2001 and Zoning MA04/06 of Draft BMAP 2004.

13. The Strategic Planning Policy Statement (SPPS), published in September 2015, indicates that until the Council adopts the Plan Strategy for its new Local Development Plan there will be a transitional period in operation. During this period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.

14. Paragraph 3.8 of the SPPS indicates 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.

15. 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.

16. An important consideration in this regard is that this proposed development is located on land zoned for housing within the Local Development Plan.

17. It is therefore contended that the principle of development at this site is acceptable, subject to compliance with all other relevant material planning considerations.

Access, Movement and Parking

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

19. Policy AMP1 – Creating an Accessible Environment aims to create an accessible environment for everyone.

20. Policy AMP7 – Car Parking and Servicing Arrangements requires proposals to provide adequate provision for car parking and appropriate servicing arrangements.

21. Detail submitted with the application demonstrates how the internal layout of the proposed development will provide for a safe and convenient road system.
The detail also demonstrates how adequate parking provision for each dwelling will be incorporated with the scheme.

22. Transport NI has confirmed that it is content with the internal layout and parking provision. It is therefore contended that the proposal as presented is compliant with the key access, movement and parking policy tests.

**Quality Residential Environments**

23. PPS 7 – Quality Residential Environments sets out planning polices for achieving quality in new residential developments.

24. Policy QD1 – Quality in New Residential Development, a key policy test states that planning permission will only be granted for new residential development where it is demonstrated it will create a quality and sustainable residential environment. The policy directs that the design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.

25. Policy LC1 of the addendum to PPS 7 - Protecting Local Character, Environmental Quality and Residential Amenity is another important consideration. It states that in established residential areas a key consideration is to ensure that new residential schemes are sensitive in design terms to people living in existing neighbourhoods and that the development is in harmony with the local character of the established residential area.

26. The following are the applicable criteria of Policy QD1 of PPS 7 to ensure compliance with Policy LC1 of the addendum to PPS 7.

**Impact on Character of Area**

27. In terms of site layout it is contended that this proposal is acceptable when compared with other developments in its immediate vicinity. The scheme comprises a range of house types reflective of those in adjacent developments.

28. It is considered that the range of house types proposed are appropriate to the character and topography of the site in terms of their layout, scale, proportions, massing/appearance of buildings and other landscaped and hard surfaced areas.

**Layout/Design/Materials**

29. The proposed site layout seeks to enhance that of the overall area. The dwellings are sensitively positioned, offering sufficient front and rear amenity space and with suitable garages and car parking provision.

30. The design of the dwellings draw upon the characteristics of, and are broadly in line with the existing built fabric in terms of height, scale and massing. The site layout plan demonstrates a density and ratio of built form to garden area that is appropriate to planning policies and is consistent with that found in the immediate vicinity. Separation distances between proposed dwellings and their
relationship with adjacent residential dwellings and their existing boundaries is adequately addressed and respected by this proposal.

31. Finishing materials to be used in the construction of the dwellings will include select facing brick, white render, stone cladding, brick detailing, blue grey concrete interlocking roof tiles, UPVC rainwater goods, UPVC windows, painted solid timber doors and frames. These finishes very much match those of the dwelling designs in the surrounding developments and it is contended therefore that the design of, and construction materials are acceptable and will not be detrimental to the overall character of the area.

Residential Amenity

32. With regard to residential amenity considerations, it is considered that the design and layout of the proposal will result in sufficient separation distances between proposed dwellings and those in adjacent developments and will not therefore create conflict or unacceptable adverse effects in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

Landscaping/ Amenity Space

33. Policy requires that adequate provision is made for public and private open space and landscaped areas as an integral part of new developments.

34. The level of private open space (measured as an area of rear garden space) as illustrated in the proposed site layout plan appears to be acceptable. Drawing No. 51 bearing the planning date stamp 23 November 2017, provides a private amenity schedule with the private amenity provision indicated for every dwelling. No dwelling has less than 43 square metres of private open space provision, and the average for the site as a whole is 72 square metres per dwelling.

35. A landscaping and planting plan has been submitted to indicate the position, species and canopy spread of existing and proposed vegetation and trees and the ongoing management and maintenance of landscaping provided as part of this proposal. Proposed landscaping and the maintenance of the existing vegetation to be retained is considered appropriate.

36. It is contended that the provision of open space both private and communal, and the landscaping proposed is acceptable.

Public Open Space

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

38. Open space is essential in any community for both amenity and recreation purposes and often contributes positively to the character, attractiveness and vitality of our cities, towns and villages.
39. As this proposal exceeds an area of one hectare Policy OS2 of PPS8 directs that open space must form an integral part of this development and that a normal expectation will be the provision of such space on at least 10% of the total site area.

40. Several areas of open space are provided for throughout the application site with 10% of the total site area dedicated to open space, equating to 0.55 acres of land which is considered to be acceptable.

**Natural Heritage Considerations**

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

42. The application site is located in an area of sensitivity for Northern Ireland priority habitats or priority species.

43. NIEA Natural heritage were consulted and requested a biodiversity checklist to be completed by the agent. Subsequently NIEA raised concerns regarding badgers on the site as an ecological statement provided by the agent advised that a badger survey should be carried out. An Assessment of Badger Activity on the site was submitted and reviewed by NIEA. They stated that following assessment of the report, they are content that badgers are unlikely to be impacted by the proposal.

44. NIEA have no objection to the proposal and it is contended that no protected species will be affected by this proposal. NIEA have offered informatives that should be attached to decision notice should the application be approved.

**Archaeology and Built Heritage**

45. Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage sets out planning policies for the protection and conservation of archaeological remains and features of the built heritage and advises on the treatment of these issues in development plans.

46. The site is in close proximity to Magherahinch House, Moira which is a Grade B1 Listed Building, meaning it is of special architectural and historic importance and is protected by Section 80 of the Planning Act (NI) 2011. Upon initial consultation Historic Environment Division, Historic Buildings requested further information with respect to its impact upon approach to the listed building.

47. Additional information was submitted to address the concerns of HED. In response to this they stated that they acknowledged that application lands have been zoned for housing. They maintain that the detail of the landscape buffer along the approaching lane to Magherahinch House (eastern boundary of the development site) and material finishes to sites 17-31 is therefore critical to ameliorate the impact of the encroachment of development on the setting of the listed building.
48. As a result they have offered conditions and informatives to be attached to a decision notice to mitigate the impact of the development on the setting of the Listed Building.

49. The site is also located between two monuments of regional importance. Historic Environment Division, Historic Monuments have stated that given the known archaeology within the immediate area, there is a potential for previously unrecorded below ground archaeological remains at this location. There therefore is some uncertainty with regard to the potential impacts of development on sub-surface archaeological remains at this location. As a result, HED requested an archaeological evaluation to help clarify if there was any archaeological remains on the site.

50. Whilst they have stated it would be preferable to resolve the archaeological potential of the site prior to a planning decision being made, they have also stated that should the applicant be willing to accept the risk, then the application would be satisfactory subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ. They have offered conditions and informatives that should be attached to decision notice should the application be approved.

**Contamination**

51. NIEA Regulation Unit noted that the former activities in the surrounding area may have caused the land to be affected by contamination. In light of this a Preliminary Risk Assessment has been provided by the agent in support of the application. No unacceptable risks to environmental receptors have been identified.

52. The Regulation Unit therefore has no objections to the development and have provided conditions and informatives to be attached to an approval.

**Water & Sewerage Infrastructure**

53. NIW were consulted and stated that there is a public water supply, a foul sewer and a surface water sewer all within 20m of the proposal. They advised that consultation with NIW is required at an early design stage by means of a Predevelopment Enquiry to obtain details of the availability of existing water and sewerage infrastructure and how the proposal may be serviced.

54. NIEA Water Management Unit have also considered the potential impacts of the proposal on the water environment and on the basis of the information provided is content. Informatives have been provided to be attached to an approval.
Flood Risk

55. PPS 15 – Planning and Flood Risk sets out policy to minimise and manage flood risk to people, property and the environment. The susceptibility of all land to flooding is a material consideration in the determination of planning applications. The development will connect into mains water, storm and foul and no schedule 6 consent for discharge to a watercourse is required.

56. In light of this it is contended that the proposal is deemed acceptable and complies with PPS15.

Conclusions

57. Based on careful consideration of all material considerations, it is contended that the proposal satisfies all of the relevant planning policies and will not cause detriment to the character of the area or the residential amenity of any neighbouring properties.

Recommendations

58. It is recommended that planning permission is granted subject to conditions.

Conditions

59. The following conditions are recommended:

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

- The vehicular accesses, including visibility splays and any forward sight distance shall be provided in accordance with Private Streets Drawing No. P309/R01d, bearing planning date stamp 12th October 2017 prior to the occupation of any other works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.
  Reason: To ensure there is a satisfactory means of access in the interest of road safety and the convenience of road users.

- The access gradients shall not exceed 8% (1 in 12.5) over the first 5m outside the road boundary. Where the vehicular access crosses footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.
  Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.
The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Private Streets Drawing No. P309/R01d, bearing the Transport NI determination date stamp 07th November 2017.

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

No dwelling shall be occupied until hard surfaced areas have been constructed in accordance with Private Streets Drawing no. P309/R01d, bearing the date stamp 12th October 2017, to provide adequate facilities for parking and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

Notwithstanding the provisions of the Planning (General Development) (Northern Ireland) Order 1993, no buildings, walls or fences shall be erected, nor hedges, nor formal rows of trees grown in service strips determined for adoption.

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

Notwithstanding the provisions of the Planning (General Development) (Northern Ireland) Order 1993 no planting other than grass, flowers or shrubs with a shallow root system and a mature height of less than 500 mm shall be carried out in service strips determined for adoption.

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

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

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

A landscape buffer of a minimum of 4m wide shall be maintained along the eastern boundary of the development site and the access lane to Magherahinch House, as set out in Drawing No. 48 bearing the planning date stamp 24th October 2107.

Reason: To protect the setting of the listed building.

No dwellings on the application site, shall be occupied until all landscaping works and boundary enhancement planting, as set out in Drawing No. 48 bearing the planning date stamp 24th October 2017 have been completed, and agreed in writing with Lisburn City Council Planning authority.

Reason: To protect the setting of the listed building.
• Enhanced existing boundary treatment to the eastern boundary, shall have native species planting, minimum of 2 meters high, to screen the development on approach to Magherahinch House.
  **Reason:** To protect the setting of the listed building.

• Roof finish to dwellings and associated garages on plots 17-31, as set out in Drawing 02/1 bearing the planning date stamp 21st August 2017, shall be natural welsh slate.
  **Reason:** To safeguard the setting of the listed building.

• Windows to plots 17-31, as set out in Drawing 02/1 bearing the planning date stamp 21st August 2017, shall be opaque painted hardwood.
  **Reason:** To safeguard the setting of the listed building.

• No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Department. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.
  **Reason:** to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

• Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department to observe the operations and to monitor the implementation of archaeological requirements.
  **Reason:** to monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

• If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction.
  **Reason:** Protection of environmental receptors to ensure the site is suitable for use.

• After completing all remediation works under the above condition and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with the Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should present all the remediation and monitoring works undertaken and
demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

- The existing natural screenings of this site, as indicated on approved plan No. 03/1 bearing the date stamp 21\textsuperscript{st} August 2017, shall be retained. If any retained tree is removed, dies, or is seriously damaged within 5 years from the date of the occupation of the building, another tree or hedge of a native species shall be planted during the next planting season.  
  **Reason:** To ensure the continuity of amenity afforded by the existing trees and hedges.

- During the first planting season, after the occupation of the dwellings, the planting scheme shall be carried out in accordance to the stamped approved plan No. 03/1 bearing the date stamp 21\textsuperscript{st} August 2017.  
  **Reason:** To ensure the maintenance of screening to the site.

- If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, dies or is seriously damaged, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place.  
  **Reason:** To ensure the provision, establishment and maintenance of a high standard of landscape.
<table>
<thead>
<tr>
<th>Council/Committee</th>
<th>Planning Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Committee</td>
<td>8 January 2018</td>
</tr>
<tr>
<td>Meeting</td>
<td></td>
</tr>
<tr>
<td>Committee Interest</td>
<td>Local Application (Called In)</td>
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<tr>
<td>Application Reference</td>
<td>S/2014/0398/F</td>
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<tr>
<td>Date of Application</td>
<td>12 June 2014</td>
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<tr>
<td>District Electoral Area</td>
<td>Downshire East</td>
</tr>
<tr>
<td>Proposal Description</td>
<td>Erection of 9 Dwellings</td>
</tr>
<tr>
<td>Location</td>
<td>15 Rathfriland Road, Dromara, BT25 2JG</td>
</tr>
<tr>
<td>Applicant/Agent</td>
<td>Four Winds Investment Ltd/Turley</td>
</tr>
<tr>
<td>Representations</td>
<td>0</td>
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<tr>
<td>Case Officer</td>
<td>Kevin Maguire</td>
</tr>
<tr>
<td>Recommendation</td>
<td>REFUSAL</td>
</tr>
</tbody>
</table>

**Summary of Recommendation**

1. This is a local planning application that has been referred to the Planning Committee for determination in accordance with the Protocol of the Operation of the Planning Committee.

2. The application is presented to the Planning Committee with a recommendation to refuse.

**Description of Site and Surroundings**

3. The site is a small rectangular shaped parcel of land that measures approximately 0.186 hectares. The site was previously occupied by a police station that has since been demolished with only hardstanding remaining. The site rises from the road level in a north easterly direction to the rear of the site. The front (south west) boundary is defined by a 2m high masonry wall topped with metal sheeting and paladin security fencing. The remaining boundaries are generally defined by metal sheet and security fencing. There is a small non-vehicular access to the rear of the site with access off Barclay Manor.

4. The site is located within Dromara development settlement limit as defined in the Lisburn Area Plan 2001 and draft Belfast Metropolitan Area Plan (BMAP). A Local Planning Policy Area (LLPA) (DA 08) is situated to the east and rear of the proposed site as defined within draft BMAP.
5. A bus station is located adjacent and north of the site. There is a restaurant/take away directly to the west of the site and the majority of the remaining land use in the area is dominated by residential development. New houses are situated across the road to the south west and most of these are two storey in scale with pitched roofs. There is a variety of external finishes within the immediate area of site.

**Proposed Development**

6. The application proposes the erection of 9 Dwellings, with 4 sets of semi-detached dwellings and one detached dwelling. The finishes of the dwellings mainly include smooth render to walls with plaster base, however Site No 5 includes facing brick where shown to match garden wall facing brick. Roofs are pitched and include plain profile dark roofing tiles or natural slate, profile metal flat dormers and flat roof canopy over front door. Doors and windows to be double glazed UPVC or polyester coated aluminium frames. Solar panels to roof where shown on plans.

7. The application proposes to access onto the Rathfriland Road. Plans show landscaping within the site including details of proposed standard trees and groundcover shrubs. With this proposal the existing security fencing will be removed and replaced with 1.8m high double sided close boarded fence.

8. Following discussions the application has been amended and a Supporting Statement submitted to detail how the proposal is considered to comply with relevant planning policy and guidance.

**Relevant Planning History**

9. Planning histories that either wholly or partially include the site are detailed below:

<table>
<thead>
<tr>
<th>Application Reference</th>
<th>Description of Proposal and Address</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>S/2011/0403/F</td>
<td>Demolition of existing PSNI Station, construction of 10 dwellings, new entrance and associated site works and drainage - 15 Rathfriland Road, Dromara</td>
<td>Dismissed on appeal 31.07.2012</td>
</tr>
<tr>
<td>S/2011/0424/F</td>
<td>Tribute Sculpture to Dromara Motorcycle Club including landscaped garden area - 15 Rathfriland Road, Dromara</td>
<td>Permission Refused 16.10.2013</td>
</tr>
</tbody>
</table>
Planning Policy Context

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

- Regional Development Strategy (RDS) 2035
- Lisburn Area Plan 2001
- Draft Belfast Metropolitan Area Plan (BMAP) 2015;
- Strategic Planning Policy Statement for Northern Ireland (SPPS) - Planning for Sustainable Development;
- Planning Policy Statement (PPS) 3 - Access, Movement and Parking;
- Planning Policy Statement (PPS) 7 - Quality Residential Environments;
- Planning Policy Statement (PPS) 7 – Safeguarding the Character of Established Residential Areas;
- Planning Policy Statement (PPS) 12 – Housing in Settlements;

Consultations

11. The following consultations were carried out.

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transport NI</td>
<td>Refusal recommended</td>
</tr>
<tr>
<td>Rivers Agency</td>
<td>No objections</td>
</tr>
<tr>
<td>NIEA Historic Monuments Unit</td>
<td>No objection</td>
</tr>
<tr>
<td>Environmental Health</td>
<td>No objection</td>
</tr>
<tr>
<td>NI Water</td>
<td>No objection</td>
</tr>
<tr>
<td>NI Electricity</td>
<td>No response</td>
</tr>
</tbody>
</table>

Representations

12. No letters of objection have been received to date.

Consideration and Assessment

13. The main issues to consider in the determination of this planning application are:

- Development Plan
- Principle of Development
- Access, Movement and Parking
- Quality Residential Environments
  - Impact on character of area
  - Layout / Design / Materials
  - Residential amenity
  - Landscaping/Amenity Space
Development Plan

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

15. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan 2015 had, in its entirety not been lawfully adopted. As a consequence of this decision, the application must now be assessed in accordance with the Lisburn Area Plan 2001 (LAP) as the statutory plan. However, draft BMAP and its policy considerations remains a material consideration.

16. The application site is identified within LAP 2001 as being within the settlement limit of Dromara, its status remains the same in the emerging draft BMAP.

Principle of Development

17. The Strategic Planning Policy Statement (SPPS), published in September 2015, indicates that until the Council adopts the Plan Strategy for its new Local Development Plan there will be a transitional period in operation. During this period, planning policy within existing retained documents and guidance will apply.

18. Paragraph 3.8 of the SPPS indicates 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.

19. 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.

20. It is contended that the principle of development at this site is acceptable, however it is subject to compliance with all other relevant material planning considerations.

Access, Movement and Parking

21. Planning Policy Statement (PPS) 3 – Access, Movement and Parking sets out the policies for vehicular and pedestrian access, transport assessments, protection of transport routes and car 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.
22. PPS3, Policy AMP1 – Creating an Accessible Environment aims to provide an accessible environment for everyone.

23. PPS3, Policy AMP 2 – Access to Public Roads requires a proposal to demonstrate that any direct access would not prejudice road safety or significantly inconvenience the flow of traffic.

24. PPS3, Policy AMP7 – Car Parking and Servicing Arrangements requires a proposal to provide adequate provision for car parking and appropriate servicing arrangements.

25. Transport NI (TNI) in its consultation response finds this proposal unacceptable in its present form as the access and car parking have not been provided in accordance with PPS 3 and the guidance of ‘Creating Places’. As such the proposal is contrary to Policy AMP2 as the proposed car parking is communal in nature and detached from the front of the dwellings which will encourage pedestrians to cross and re-cross the internal road, thus increasing the accident potential. The internal road would be adopted by TNI and as such, with the potential for accident risks, the design and layout of car parking is unacceptable. The proposal is also found to be contrary to Policy AMP7 as adequate provision cannot be made clear of the highway for the parking and turning of vehicles. The guidance of ‘Creating Places’ indicates that a development semi-detached dwellings, such as this proposal, must have incurtilage parking.

26. As indicated in the history table (Paragraph 9) the previous application on this site was dismissed at appeal. The Planning Appeals Commission (PAC) in its consideration of the proposal noted that car parking should be convenient, allow for informal surveillance and that all but two of the proposed parking spaces would be separated from the dwellings they would serve by the estate road. In particular dwellings on Sites 1 and 2 would be a significant distance from the nearest parking spaces, if available and would involve crossing the estate road near its junction with the public road. The PAC considered that situation ‘would be neither convenient nor benefit from informal surveillance’. It is contended that the proposed site layout raises similar issues in this regard and therefore remains unacceptable on the basis of PPS3.

**Quality Residential Environments**


28. Policy QD1 – Quality in New Residential Development is a key policy test and states that planning permission will only be granted for new residential development where it is demonstrated it will create a quality and sustainable residential environment. Policy QD1 also directs that the design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.
29. Policy LC1 of the addendum to PPS 7 - Protecting Local Character, Environmental Quality and Residential Amenity is another important consideration. It states that in established residential areas a key consideration is to ensure that new residential schemes are sensitive in design terms to people living in existing neighbourhoods and that the development is in harmony with the local character of the established residential area.

30. The following are the applicable criteria of Policy QD1 of PPS 7 to ensure compliance with Policy LC1 of the addendum to PPS 7.

**Impact on character of area**

31. The immediate area is generally characterised by residential development and on this basis the development would be consistent with the prevailing land use of the area.

32. Policy QD1(a) of PPS7 requires the proposal to respect the surrounding context and be appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. This is further supported by Policy LC1 of the Addendum to PPS7 that requires a density of the development that is not significantly higher than that found in the established residential area and a pattern of development that is in keeping with the overall character and environmental quality of the established residential area.

**Layout/Design/Materials**

33. As has been noted Sites 1 and 2 are at variance within their surrounding context. The other 7 dwellings under consideration propose a layout that conflicts with the amenity of existing dwellings and are discussed further under residential amenity below.

34. In terms of design the proposed dwellings are modern in appearance and with a high solid to void ratio and vertical emphasis to the windows they are considered to be in keeping with many of the dwellings in the area. In addition, the proposed roof to each of the dwellings is pitched and would be in keeping with other development in the area. Solar panels have been shown on the roof pitch, and although the drawings do not clarify whether there is any projection from the roof plane it is considered that these features would generally be acceptable in the context of Policies RE1 and RE2 of PPS18.

35. Finishing materials to be used in the construction of the dwellings will include smooth render with plaster base and facing brick to dwelling No 5 on external walls. The pitched roof is to be plain profile dark roofing tiles or natural slate. It is considered that there is no consistency in finishes to existing buildings in the immediate area and therefore the materials used in the proposed development would be generally acceptable.
Residential amenity

36. The design and layout of this proposal includes the previously mentioned dwellings at Sites 1 and 2 that front to Rathfriland Road. Each of these dwellings are provided with private amenity space to their rear. Vehicular access is located between Site 2 and No. 17 Rathfriland Road to its south. Behind Sites 1 and 2 and their associated amenity areas are Sites 3, 4 and 5 that are orientated to face south. The private amenity areas for these dwellings are located to the north (rear) side. At the eastern end of the site are Sites 6, 7, 8 and 9 which are orientated to face west towards the Rathfriland Road. These 4 Sites are located at the highest part of the site.

37. In terms of this proposal, as described in the previous paragraph, Policy QD1 (h) states that ‘the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance’. There are no concerns with the orientation of the proposed dwellings in regard to lands adjacent and to their north as these are lands in use as a bus station and therefore the orientation will have no impact on residential amenity. However the layout of the dwellings on Sites 3, 4 and 5, with their frontages orientated towards the south, and Sites 8 and 9 with their frontages orientated west, raises issues of conflict with the adjacent residential units to the south side of the site. Given these orientations, the rising nature of the ground levels within the site and the proposed boundary fencing, there will be a detrimental impact to the private amenity areas of existing properties in terms of overlooking, particularly No. 17 Rathfriland Road.

38. The privacy concerns are particularly relevant to Sites 3, 4 and 5 and their contextual position with the existing dwelling at No 17 Rathfriland Road. There is a distance of approximately 14 metres from the front of the proposed dwellings to the existing private amenity space at the rear of No. 17 and given the level differential (approximately 2 metres) between these two points, the provision of a new 1.8m high close boarded fence would be unlikely to adequately protect the private amenity space. It is envisaged that there would be a clear view into this private amenity space from the upper floor bedroom windows of Sites 4 and 5 in particular.

39. There is concern regarding the position of the communal car parking. Environmental Health, having reviewed this proposal considers the residential amenity to the adjacent property will be disturbed by the proximity of communal car parking along the common boundary with No. 17’s private amenity area. Additionally site levels are such that No 17 would suffer the effect of headlights from manoeuvring vehicles at Sites 6, 7, 8 and 9 at the eastern end of the site.

40. In its determination of the previous appeal on this site (2011/A0315) the Planning Appeals Commission (PAC) made specific reference to these concerns. The PAC considered the arrangement of dwellings within the proposal would not prevent overlooking into the private amenity space of No. 17 Rathfriland Road and the then proposed boundary fence of 2.1 metres, now
proposed to be 1.8 metres in height, ‘would not prevent vehicle headlights at the upper end of the site shining into its (No. 17’s) upper, rear windows when turning or manoeuvring onto/out of parking spaces to the detriment of its occupants’ residential amenity. The proximity of some of the car parking spaces and the estate road to the rear of this property could also give rise to noise disturbance over and above that emanating from traffic on Rathfriland Road’. The Commissioner also stated; ‘I note that the dwelling’s current occupants have not objected to the proposal. However, this consideration does not outweigh the potential for nuisance to them and possible successors’. Overall the consideration of this proposal against planning policy and the determination of the PAC is such that it would have an unacceptable adverse impact on No 17 Rathfriland Road by virtue of overlooking to its private amenity space, noise and other disturbance as a result of vehicular traffic attracted to the proposed dwellings.

Landscaping/Amenity Space

41. Policy QD1 of PPS7 requires adequate provision of amenity space with residential development and landscaped areas as an integral part of the scheme.

42. The average level of private open space (measured as an area of rear garden space) is shown on the proposed site layout plan to be approximately 49sqm per dwelling. The guidance of ‘Creating Places’ advises that back gardens to dwellings should be calculated as an average space standard for the development as a whole and should be around 70sqm per dwelling or greater; any individual house which has an area less than around 40sqm will generally be unacceptable.

43. The Supporting Statement submitted on behalf of the Applicant describes the development site as a small urban infill site. For a small urban infill site ‘Creating Places’ guidance advises private communal open space will be acceptable in the range of 10 to 30sqm per unit. Whilst the amenity space per proposed unit is greater than these figures it should be noted that the PAC determination of the previous appeal concluded this was not an urban infill site. By that material reasoning the proposed amenity space does not meet the recommended average of 70 sqm for the development as a whole. Thus it is contended the proposal fails Policy QD1 (c) of PPS7.

44. Proposed hard and soft landscaping is denoted on the Site Layout Plan. In its dismissal of the previous appeal the PAC noted that one side of the site would be occupied by buildings and the other portion covered by hard landscaping in the form of an estate road, footpath and parking spaces. They considered that ‘this would make for excessive amount of hard surfacing providing an unattractive aspect for the public and residents’. The PAC agreed with the Department’s view that the site would be dominated by a “sea of parking” and the proposed planting ‘would not ameliorate the visual dominance of the hard standing’. The soft landscaping proposals have introduced additional planting
to improve on this aspect of the development. However it is not considered that these changes alone would satisfactorily deal with the visual impact of the proposed car parking spaces, they would still dominate the site and provide ‘an unattractive aspect for the public and residents’. On this particular issue it is considered that the proposal would be unacceptable to Policy QD1 (a) of PPS7.

Conclusions

45. All material considerations have been taken into account including relevant planning policy and associated guidance, the previous Planning Appeals Commission decision on this site and the responses from consultees. While no letters of representation have been received in relation to the proposal this does not outweigh the requirement to adhere to planning policies.

Recommendations

46. It is recommended that planning permission is refused as the proposal would be contrary to Planning Policy Statement 3, Planning Policy Statement 7 and its Addendum, Safeguarding the Character of Established Residential Areas.

Reasons for refusal

47. The following refusal reasons are recommended:

- The proposal is contrary to Policy QD1 (a), (c) and (h) of Planning Policy Statement 7: 'Quality Residential Environments', and Policies AMP 2 and AMP 7 of Planning Policy Statement 3: Access, Movement and Parking, guidance within Creating Places in that the development would not create a quality residential environment and would result in overdevelopment of the site of the site resulting in an unacceptable effect on the character of the area.

- The proposal is contrary to Policy QD1 (c) of Planning Policy Statement 7: 'Quality Residential Environments' in that the proposal would not create a quality residential environment and would result in insufficient private amenity areas and landscaping.

- The proposal is contrary to Policy QD1 (h) of Planning Policy Statement 7: 'Quality Residential Environments' in that the development would result in an unacceptable adverse impact on the residential amenity of existing dwellings by way of overlooking and noise and disturbance from vehicles using the site.

- The proposal is contrary to Policy QD1 (h) of Planning Policy Statement 7: 'Quality Residential Environments' in that the development would result in an unacceptable adverse impact on the residential amenity of Site 2 as a result of the layout and orientation of Site 3.
• The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, in that it would, if permitted, prejudice the safety and convenience of road users since adequate provision cannot be made clear of the highway for the parking and turning of vehicles, which would be attracted to the site.

• The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it would encourage pedestrians to cross and re-cross the road thus increasing accident potential.
## Summary of Recommendation

1. This application is categorised as a local planning application in accordance with the Development Management Regulations 2015. If has been ‘called in’ to the Planning Committee for determination in line with the Council’s Scheme of Delegation.

2. The application is presented to the Planning Committee with a recommendation to refuse planning permission.

## Description of Site and Surroundings

3. This is an outline application for a proposed residential dwelling in an infill site. A site visit was conducted to confirm no works had commenced and to aid the consideration of the application as submitted.
4. The application site is located on lands located on the southern side of Windmill Road, Hillsborough. The site is located to the west of a single storey shed/hall. The application site is currently within the curtilage of the hall and appears to have been an area hard cored in the past but has been left and is now overgrown with weeds and grass. Access to the site is possible via an existing metal agricultural gate but this entrance is outside the identified application site. The sites road frontage boundary is a substantial well maintained grass verge with concrete post and wire fence. The site sits slightly elevated from the road. The south eastern boundary is delineated by a vegetative boundary comprising hedging and several trees. The south western boundary is also vegetative in nature and separates the site from an adjacent laneway which provides access to the agricultural lands located to the rear of the site. The eastern boundary is currently undefined.

5. To the west of the site is a single storey shed/hall. The application site is currently located within the curtilage of this shed/hall. The said building has an entrance door with a small porch. The hall is of a wooden construction with a hipped roof which is felted. The building has several window openings. Access to the site is via an agricultural field gate and there is a well maintained grass verge to the road frontage. The site is elevated from the road frontage and the front boundary is a concrete post and wire fence. The area around the hall appears to have been hard cored in the past but weeds and grass are now growing through this surface. The site is triangular in nature the rear boundary is a mature vegetative boundary comprising of hedging and trees. The south western boundary is similar in nature and separates the hall from the adjacent laneway.

6. To the west of the laneway is a single storey detached dwelling set within a defined residential curtilage. Access to the property is via a vehicular entrance formed by round concrete pillars and a decorative metal gates set back from the road frontage. The built form comprises a detached garage with connecting wall to the main dwelling. The dwelling is elevated from the road frontage. The road frontage boundary is a well maintained hedge with small trees in excess of 2m in height road side and grassed verge. This boundary treatment screens the dwelling from the road. The boundary adjacent to the laneway is again a well maintained hedge.

7. The wider area is both rural in character and appearance. Agricultural lands to the rear of site rise to the south. While the agricultural lands to the north of the site fall away. There are open views across these lands from the application site.
Proposed Development

8. The application is for proposed dwelling on in-fill site

Relevant Planning History

9. There is no planning history pertaining to the application site.

Planning Policy Context

10. The relevant planning policy context which relates to the application is as follows:
   - Draft Belfast Metropolitan Area Plan (BMAP) 2015.
   - SPPS: Strategic Planning Policy Statement
   - Planning Policy Statement 3: Access, Movement and Parking

Consultations

11. The following consultations responses were received in relation to this application.

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transport NI</td>
<td>No objection subject to conditions and informative provided.</td>
</tr>
<tr>
<td>Water Management Unit</td>
<td>No specific comment subject to standard conditions and informatives.</td>
</tr>
<tr>
<td>NI Water</td>
<td>Statutory response</td>
</tr>
<tr>
<td>LCCC Environmental Health Service Unit</td>
<td>No objection in principle</td>
</tr>
</tbody>
</table>

Representations

12. There have been no letters of representation received in respect of this application.

Consideration and Assessment

13. The main issues to consider in the determination of this planning application are:
   - Principle of Development
   - Sustainable Development in the Countryside
• Ribbon Development
• Rural Character
• Integration and Design of Buildings
• Development relying on Non Mains Sewerage

Principle of Development

14. The adopted BMAP 2015 was quashed by a judgement of the Courts on the 18 May 2017, as a consequence the Lisburn Area Plan 2001 is now the statutory up to date LDP. Draft BMAP remains a material consideration. Within both the LAP 2001 and Draft BMAP 2015 the site is within a countryside area beyond any settlement development limit.

15. The Strategic Planning Policy Statement (SPPS) published in September 2015 states that until the Council adopts the Plan Strategy for its new Local Development Plan there will be a transitional period in operation. During this period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.

16. A guiding principle of the SPPS indicates that planning authorities in determining 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.

17. In practice this means that development which accords with an up-to-date development plan should be approved and development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise.

Sustainable Development in the Countryside

18. The application site is located in the green belt/countryside as set out in the relevant Local Development Plans. There are no specific zoning requirements pertaining to this site in either plan. The plan provides no further guidance and as such, the application falls to be assessed and determined within the context of the prevailing policy tests. PPS 21 - Sustainable Development in the Countryside is a key policy consideration in the determination of this application.

19. Policy CTY1 of PPS21 sets out the circumstances when proposals for domestic properties are in principle considered acceptable in such a rural location. It 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.

20. The policy goes on to say that planning permission will be granted for an individual dwelling house in six specified cases. One is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8.

Ribbon Development

21. Policy CTY 8 – Ribbon Development states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 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. The policy defines a substantial and built up frontage as including a line of 3 or more buildings along a road frontage without accompanying development to the rear.

22. PAC decision 2013/A0248 provides clarity in this regard. The Commission has previously expressed its view that it finds the wording of policy CTY 8 to be both confusing and contradictory in that its provisions expressly allow for the creation of ribbon development despite its clear opposition to such a form of development.

23. The policy exception set out in the head note of CTY 8 defines a substantial and built up frontage as a line of three or more buildings along a road frontage without accompanying development to the rear.

24. The Commission, in agreement with the appointed member, agrees that such a situation exists in the context of the present appeal. The Department’s assessment that there is no visual linkage and no sequential awareness of the 3 dwellings along the frontage of Manse Road attempts to introduce a visual test which does not appear in the policy. Whilst acknowledging that the appeal proposal will result in the creation of ribbon development, the Commission, in agreement with Commissioner McShane, agrees that it meets the exception set out in policy. To that extent the Commission disagrees with the Commissioner’s approach in paragraph 7 of appeal 2013/A0061 which led to the conclusion that there was no substantial and continuously built up frontage.

25. In considering the application site in relation to the requirement of the site to be a small gap in a substantial and built up frontage, it is contended that No 4
Windmill Road is a detached residential dwelling with a garage located to the sided. The garage is attached to the dwelling by a link-wall. The dwelling and garage both present as a frontage to the road. There is then an access laneway providing access to the agricultural lands to the rear.

26. Next is the application site which is presently located entirely within in curtilage of the existing hall. The hall is single storey in nature and of a wooden construction with a pitched roof. There are windows and a door evident in the structure. The building does not appear to have foundations but set on concrete blocks. The building does present a frontage to the road.

27. Taking this context into account, it is contended that there are three buildings presenting three separate frontages onto Windmill Road. Policy defines a substantial and built up frontage as including a line of 3 or more buildings along a road frontage.

28. The head-line policy provides no clear definition or explanation regarding the relationship a building must have to the road frontage in order to be considered part of a substantial and continuously built up frontage or what specifically defines a road frontage.

29. The amplification and guidance states at paragraph 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.

30. Taking into account the associated guidance, it is contended that in this case a substantial and continuous built up frontage does exist along this section of Windmill Road.

31. After the case of a substantial and continuous built up frontage has been established, policy CTY8 states that 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.

32. In considering existing and proposed frontages, the existing pattern is noted as follows:
   - No4 including garage: 36m
   - Hall: 42m
33. The average road frontage prior to consideration of the proposal is approximately 39m

34. In terms of the proposed frontages
   - No4 including garage unchanged: 36m
   - Application site: 17m
   - Hall: 25m

35. The average road frontage after introduction of the application site is approximately 26m

36. Therefore, there is an average reduction in the proposed road frontages of 13m. The resultant frontages of the Hall and application site are now significantly less than the previous average. It is considered that this change serves to manufacturing a site and significantly alters the existing development pattern.

37. The application site has the smallest road frontage of the three sites. It is only half that of the adjacent current residential dwelling located at No4 Windmill Road. It is considered that the proposed pattern of development is not reflective of the existing road frontage pattern of development as required to be considered under the policy. Previously the two frontages were similar in size.

38. In considering plot sizes, the existing plot sizes are as follows:
   - No4 including garage: approximately 1700 square metres
   - Hall: 850 square metres (excludes road verge)

39. The hall due to the triangular nature of the site has an existing curtilage half that of the residential dwelling No4 Windmill Road.

40. The proposed plot sizes are to be as follows:
   - No4 including garage unchanged: approximately 1700 square metres
   - Application site: 475 square metres (excludes road verge)
   - Hall: 400 square metres (excludes road verge)

41. The proposed sub-division of the existing curtilage of the hall will ultimately result in the formation of two new curtilages. These will be one quarter the size of the curtilage of the adjacent residential property No4 Windmill Road. It is considered that this is not reflective of the existing development pattern along the frontage particularly in terms of plot size as required to be considered under this policy.

42. As indicated above, the application appears to be manufacturing a site resulting in development which neither respects the existing development pattern but
alters it significantly both visually and materially. At present the three buildings are not visually linked but if approved they would be resulting in a sub-urban pattern of development where there was none previously.

43. Any proposed dwelling on the site will be initially confined by the maximum width of the site being 17 metres this being measured from the gable of the existing hall to the boundary which is hedging and trees. This is considered to be extremely restrictive in nature as there would need to be some circulation space adjacent to the dwelling.

44. The plot size 475 square metres is also restrictive in terms of possible design as any dwelling if granted would be conditioned to be single storey in nature to be reflective of the existing built form.

Integration and Design of Buildings

45. Policy CTY 13 – Integration and Design of Buildings in the Countryside requires that buildings visually integrate into the surrounding landscape. The policy lists several instances where a new building in the countryside will be deemed to be unacceptable.

46. It is considered that any proposed building on this site would be a prominent feature in the landscape when viewed traveling along the existing road. There is currently no boundary in place along the eastern edge of the application site. The determination of integration is how well it will blend in unobtrusively with its immediate and wider surroundings.

47. The main criteria against which the degree of visual impact is considered is position of the buildings, enclosure, natural boundaries and intervening vegetation between the site and critical views. In this case, it is considered that the site lacks an established natural boundary and a suitable degree of enclosure as well as being elevated from the road.

Rural Character

48. Policy CTY 14 – Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to rural character.

49. It is considered that the proposal is contrary to this policy as the proposed dwellings would be unacceptably prominent in the landscape. It would result in a suburban style build-up of development, while not respecting the traditional pattern of settlement in the area. As such the proposal would have an adverse impact on the rural character of this area.
Development relying on Non Mains Sewerage

50. 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.

51. The P1 Form indicates that foul sewage is to be disposed of by means other than mains and septic tank and that surface water will be disposed off via soakaways.

52. Environmental Health have no objection in principle, however they have advised that at the subsequent planning stage the applicant should provide a detailed site plan which includes the location of the proposed dwelling, the septic tank/bio disc and the areas of subsoil irrigation for the disposal of effluent. The drawing should also include the position of the septic tank and soakaway for any other relevant adjacent dwelling.

53. In addition, Environmental Health recommend that any septic tank unit / waste water treatment unit should be a minimum of 7 metres from the proposed development and any other habitable dwelling/building such as an office or such a dwelling/building in the course of construction or the subject of planning approval.

54. It is considered that the restrictive nature of the site will present design solution challenges in this regard to accommodate the dwelling, service provision and associated usable amenity space

PPS 3 – Access, Movement and Parking

55. PPS 3 – Access Movement and Parking sets out policies to ensure that any new development does not create a traffic hazard and that any proposed development can have a safe access/egress onto the public road.

56. Transport NI have considered the detail associated with the application and consider the proposal with regard to access arrangements and parking to be acceptable. A number of conditions and informatives have been recommended.

57. It is therefore contended that the policy requirements associated with PPS3 can be satisfied.
Conclusions

58. Having considered the nature of the proposal against the prevailing planning policies it is contended this application fails to satisfy the prevailing policy tests.

Recommendation

59. It is recommended that planning permission is refused.

Refusal Reasons

58. The following refusal reasons are recommended.

- The proposal is contrary to the SPPS and Policy CTY1 and CTY8 Ribbon Development of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal fails to respect the existing development pattern in terms of size, scale and plot size along this section of Windmill Road.

- The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape, resulting in a suburban style build-up of development when viewed with existing buildings and would not respect the traditional pattern of settlement exhibited in the area resulting in a detrimental change to the rural character of the countryside.

- The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building will be a prominent feature in the landscape and would not visually integrate into the surrounding landscape.
### Summary of Recommendation

1. This application is categorised as a local planning application. The application has been Called In to the Planning Committee for determination in accordance with the Protocol for the Operation of the Planning Committee.

2. The application is presented to the Planning Committee with a recommendation to Refuse.

### Description of Site and Surroundings

3. The application site is located on the eastern side of the Saintfield Road, a protected route.

4. There is a one storey semi-detached property positioned to the front of the site adjoining no 174 Saintfield Road. There is a 2m high mature hedge line along the site boundaries with a 2m high wooden boarded fence, stepped along the southern boundary. The levels in the site rise significantly towards the rear of the site from the Saintfield Road in an easterly direction.
5. There is a private laneway off the Saintfield Road at the front of the property which allows for the parking of one car.

6. Number 2 Glendale Park adjoins the site at its rear. Residential development characterises the surrounding area. It consists of medium density housing, mostly of semi-detached dwellings with smaller gardens to the front and long, narrow extended gardens to the rear.

**Proposed Development**

7. This is an outline application for the erection of detached dwelling to rear garden of existing dwelling, with access via shared driveway.

**Relevant Planning History**

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

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Y/2001/0107/F</td>
<td>Widening of access and construction of turning area.</td>
<td>Approved 22 January 2001</td>
</tr>
</tbody>
</table>

**Planning Policy Context**

9. The relevant planning policy context is as follows:
   - Local Development Plan
   - Strategic Planning Policy Statement (SPPS)
   - Planning Policy Statement (PPS) 3 - Access, Movement and Parking
   - PPS 7 – Quality Residential Environments
   - Addendum to Planning Policy Statement 7 – Safeguarding the Character of Established Residential Areas

**Consultations**

10. The following consultations were carried out.

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transport NI</td>
<td>Consider the application unacceptable as it is intensification of use of an existing access onto a protected route.</td>
</tr>
<tr>
<td>Environmental Health</td>
<td>No Objection</td>
</tr>
<tr>
<td>NI Water (Single Units East)</td>
<td>Standard Advice</td>
</tr>
</tbody>
</table>
### Representations

11. Four representations were received in respect of this application. The following issues were raised.
   - Impact on Character in Area
   - Garden Grabbing
   - Access Concerns
   - Overlooking
   - View from a Dwelling
   - Construction concerns experienced during build
   - Privacy
   - A hemmed in Feeling
   - Lack of Light

### Consideration and Assessment

12. The main issues to consider in the determination of this application are as follows:
   - Principle of Development
   - Quality Residential Environments & Safeguarding the Character of Established Residential Areas
     - Respect Surrounding Context and Character
     - Identify and Protect features of Archaeological and Built Heritage
     - Adequate provision of public and private open space
     - Adequate and appropriate car parking provision
     - Design and Compatibility Considerations
   - Access Movement and Parking

### Principle of Development

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

14. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan 2015 had in its entirety, not been lawfully adopted. As a consequence of this decision, the Lisburn Area Plan 2001 (LAP) is now the statutory development plan for the area with draft BMAP remaining a material consideration.

15. The application site is identified in Belfast Urban Area Plan 2001 as being white land. It is also white land in the Draft Belfast Metropolitan Area Plan 2004.

16. The Strategic Planning Policy Statement (SPPS) published in September 2015 states that until the Council adopts the Plan Strategy for its new local Development plan there will be a transitional period in operation. During this period, planning policy with 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.

17. Paragraph 3.8 of the SPPS indicates 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.

18. The aim of the SPPS in relation to residential development is to manage housing growth to achieve sustainable patterns of residential development; support urban and rural renaissance; and strengthen community cohesion.

**Quality Residential Environments & Safeguarding the Character of Established Residential Areas**

19. PPS 7 – Quality Residential Environments sets out the planning policies for achieving quality in new residential developments.

20. Policy QD 1 – Quality in new residential Environments states that planning permission will only be granted where it is demonstrated that the proposal will create a quality and sustainable residential environment. It advises that the design and layout of residential developments should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding areas.

21. The policy advises that in established residential areas, proposals for housing developments will not be permitted were they would result in an unacceptable damage to the local character, environmental quality or residential amenity of these areas.

22. The Addendum to Planning Policy Statement 7 provides additional planning policies on the protection of local character, environmental quality and residential amenity within established residential areas, villages and smaller settlements.

23. Policy LC1 – Protecting Local Character, Environmental Quality and Residential Amenity states that in established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites to accommodate new housing, where all the criteria set out in Policy QD1 of PPS7 and the additional criteria set out is met.

24. Policy QD 1 require proposals for residential development to conform to a number of criteria. The proposal is contrary to part (b) in Policy LC1 in the Addendum, in that the pattern of development is not in keeping with the overall character and environmental quality of the established residential area. This is also listed in the criteria as set out in PPS7.
Respect Surrounding Context and Character

25. The proposed dwelling is to be located to the rear of an existing dwelling (No. 176 Saintfield Road). It will occupy a large part of the amenity space associated with this existing dwelling.

26. Comparison have been made with a development to the rear of No. 180 Saintfield Road approved within the context of planning application Y/2006/0663/F. It is contended that the characteristics associated with this particular site are different to that of the current application site in that it was a development associated with a corner site which bounded the Saintfield Road and Glendale Park.

27. The characteristics of this development allowed it to maintain a road frontage in keeping with the character along Glendale Park, whereas the current application sees the development set back from the main road in the rear garden area of 176 Saintfield Road, and with no road frontage. This form of back land development is not in keeping with the character of residential developments in the immediate area.

28. Details associated with the outline application indicates that the proposed dwelling will be orientated to the rear of the site, facing towards the Saintfield Road and that it will be accessed via a shared access point and extend along the side boundary of the adjacent property at No 178 Saintfield Road.

29. The distance from the rear building line of the proposed dwelling to the rear of the site which adjoins number 2 Glendale Park will be 9m at the closest point. Such a separation distance within this context is considered to be unacceptable given the property at no 2 Glendale Park is at a higher level and has side windows which will directly overlook the site.

30. The character of the area consists of dwellings set in relatively large plots, each with a significant garden area to the rear which is long and narrow in form. This proposal is at odds with this distinctive residential layout that is apparent in the immediate context of the site and should approval be given, and the site subdivided, it will remove this rear garden feature from the existing dwelling at No. 176, and the proposed dwelling will have a rear amenity area that is not characteristic of the area.

31. A further relevant consideration in the assessment of this application is the positioning of the proposed dwelling within the site identified. The proposed dwelling will be set at a higher level than the existing property and associated garden which will result in overlooking to the rear amenity space of the existing property at 176 Saintfield Road. Whilst the proposed dwelling will be located 11m from the rear boundary of the existing dwelling, the level difference will serve to amplify the overlooking effect.
Identify and Protect features of Archaeological and Built Heritage

32. No features of archaeological and built heritage have been identified.

Adequate provision of public and private open space

33. Adequate amenity provision has been provided with the application. No public open space is required with this development.

34. Adequate and appropriate car parking provision
Adequate provision had been made for the parking and turning of two cars within the site.

Design and Compatibility Considerations

35. With regard to design and compatibility considerations, as the application is seeking outline planning permission, limited design details have provided. That said, it is considered that the design and layout of a dwelling to the rear of No. 176 Saintfield Road will create conflict with adjacent residential land uses as it will cause an unacceptable adverse effect on existing properties in terms of loss of light, overshadowing and potential overlooking.

36. Windows on either side or to the rear of a dwelling at this location would be unacceptable as they would cause an unacceptable level of overlooking into the adjacent properties which would be at a lower level. It would be unrealistic to expect the dwelling to have its windows positioned to the front only.

37. It is contended that a dwelling to the rear of No. 176 Saintfield Road would have the greatest negative impact on the dwelling at No.178 Saintfield Road. There is already a dwelling on one side of this rear garden (the dwelling to the rear of No. 180 Saintfield Rd). To have another dwelling located in the garden along the opposite boundary would create an unacceptable effect on the residents of this property and their ability to enjoy their private amenity space, creating a hemmed in effect as a result of having two dwellings located so close to both boundaries.

38. An indicative drawing indicating floor plans and site sections has been submitted to support the application. Although the drawing is inaccurate, in that the floor plans and sections do not match up, it does indicate the proposed dwelling in relation to other buildings on site. The proposed dwelling will have a mono pitch roof which is not a roof type typical of the area, and would look visibly incongruous in the streetscape when viewed from Glendale Park or Saintfield Road.

39. Furthermore the floor plan indicates 3 windows on the rear elevation which will be 2 metres away from a 1.5 metre step up to the garden area, it is contended that this is not an acceptable design solution or outlook for prospective residents.

Access, Movement and Parking

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

41. Policy AMP7 – Car Parking and Servicing Arrangements requires proposals to provide adequate provision for car parking and appropriate servicing arrangements. Transport NI considered the application unacceptable. The agent had not provided correct and sufficient information to allow full assessment of road safety and traffic progression to be completed. The Saintfield Road is a protected route and under Policy AMP3 of PPS3, accesses onto these roads are restricted. AMP3 only allows for new accesses or intensification of use of existing access where the access can be taken from a minor road or where the development would assist in producing a quality environment.

42. Transport NI have stated that since neither of these criteria apply, they cannot support the application. The agent submitted information in light of this, however the issue of the Protected Routes Policy has not been addressed and Transport NI retained its previous position.

Consideration of Representations

43. Issues raised by way of third party representation are considered in the section below.

Character of the area and garden grabbing

44. It is contended that the proposal is out of character with the area as the type of development is at odds with the existing pattern found in the immediate area for the reasons set out above.

Access Concerns

45. Transport NI were consulted and stated that there is some criteria in PPS3 which allows some development to a protected route where a minor road is not available.

Overlooking and view from existing dwelling/loss of privacy

46. Whilst there are no design details provided with the application as it is for outline permission only, it is considered that overlooking will be a concern, especially towards the dwelling at No. 176.

Construction concerns experienced during the build

47. There is no policy context upon which a view can be considered against as it is not a planning matter. Construction concerns are outside the remit of the local planning authority.

Hemmed in feeling

48. It is considered that adjacent neighbouring privacy could be adversely affected as the dwelling is close to all the surrounding dwellings and because of its elevated position. Serious concerns about the effect it would have on the property at No. 178 and a potential hemmed in effect are considered to be very real, especially in light of the existing dwelling to the rear of No. 180.
Lack of Light
49. It is contended that a dwelling could create overshadowing effects on the dwelling at No. 174 given the raised nature of the rear garden and scale of any dwelling on the site.

Conclusion
50. Based on careful consideration of all relevant material considerations, it is contended that the proposed development fails to satisfy the relevant policy tests.

Recommendation
51. It is recommended that planning permission is refused.

Refusal Reasons
52. The following refusal reasons are recommended:

- The proposal is contrary to the SPPS and Planning Policy Statement 7: Quality Residential Environments (a) in that it would result in the overdevelopment of the site and cause unacceptable damage to the local character and environmental quality through its inappropriate siting, scale and design. It would harm the living conditions of adjacent residents through dominance and loss of privacy.

- The proposal is contrary to the SPPS and Policy QD1 (h) of the Department's Planning Policy Statement 7: "Quality Residential Environments" in that it would, if permitted, be harmful to the living conditions of the adjacent properties at No. 176 and no. 178 Saintfield Road through overlooking, overshadowing, noise or other disturbance resulting in a loss of residential amenity.

- The proposal is contrary to the SPPS and Policy LC1 of the Addendum to Planning Policy Statement 7 - Safeguarding the Character of Established Residential Areas in that the pattern of development is not in keeping with the overall character and environmental quality of the established residential area.
Summary of Recommendation

1. This application is categorised as a local planning application. The application has been Called In to the Planning Committee for determination in accordance with the Protocol for the Operation of the Planning Committee.

2. The application is presented to the Planning Committee with a recommendation to Refuse.

Description of Site and Surroundings

3. The application site is located along the Windmill Road, between number 20 and 26 Windmill Road. The site is currently an agricultural field. The land rises gently away from the road in a southerly direction.

4. There is a 2.5 – 3m high hedge along the northern boundary of the site. A 3m hedge defines the eastern boundary of the site with 10-12, high trees characteristic of the western boundary. The southern boundary is undefined.
5. There is a two storey dwelling located to the east of the site and a storey and a half dwelling located to the west.

**Proposed Development**

6. This is an outline application for 2 infill dwellings and garages and associated site works.

**Relevant Planning History**

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

**Planning Policy Context**

8. The relevant planning policy context is as follows:
   - Local Development Plan
   - Strategic Planning Policy Statement (SPPS)
   - PPS 21 – Sustainable Development in the Countryside
   - PPS 6 – Archaeology and Built Heritage
   - PPS 3 – Access, Movement and Parking

**Consultations**

9. The following consultations were carried out.

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Historic Environment Division</td>
<td>Standard Advice Provided</td>
</tr>
<tr>
<td>NIEA</td>
<td>Standing Advice Provided</td>
</tr>
<tr>
<td>NI Water (Multi Units East)</td>
<td>Standard Advice</td>
</tr>
<tr>
<td>Environmental Health</td>
<td>No Objection</td>
</tr>
<tr>
<td>Transport NI</td>
<td>No Objection</td>
</tr>
</tbody>
</table>

**Representations**

10. No representations were received in respect of this application.

**Consideration and Assessment**

11. The main issues to consider in the determination of this application are as follows:
   - Principle of Development
   - Sustainable Development in the Countryside
   - Ribbon Development
Principle of Development

12. 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.

13. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan 2015 had in its entirety, not been lawfully adopted. As a consequence of this decision, the Lisburn Area Plan 2001 (LAP) is now the statutory development plan for the area with draft BMAP remaining a material consideration.

14. The application site is identified in Lisburn Area Plan 2001 as being within the green belt, outside of any defined settlement limit. It is also identified as being with the Countryside in the Draft Belfast Metropolitan Area Plan.

15. The Strategic Planning Policy Statement (SPPS) published in September 2015 states that until the Council adopts the Plan Strategy for its new local Development plan there will be a transitional period in operation. During this period, planning policy with 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.

16. Paragraph 3.8 of the SPPS indicates 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.

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

18. The application proposes a dwelling and garage in the countryside and as such, the proposal must comply with the policy tests associated with Planning Policy Statement 21: Sustainable Development in the Countryside.

Sustainable Development in the Countryside

19. This application site is within a rural location as set out in the LDP, the Lisburn Area Plan 2001 and the draft Belfast Metropolitan Area Plan.
20. Planning Policy Statement 21 - Sustainable Development in the Countryside sets out the policy tests for development in the countryside. It lists the range of development which in principle are considered acceptable and which will contribute to the aims of sustainable development.

21. Policy CTY1 - Development in the Countryside, references circumstances where planning permission will be granted for dwelling houses in the countryside. Policy CTY1 is applicable to this proposal in so far as it directs consideration of this proposal for an infill dwelling to Policy CTY8 of PPS21.

**Ribbon Development**

22. Policy CTY8 - Ribbon Development, states that planning permission will be refused for a building which creates or adds to a ribbon of development.

23. The policy also states that 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.

24. 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. A building has a frontage to a road if the plot on which it stands abuts or shares a boundary with the road.

25. The application site is associated with the northern part of a larger agricultural field. There is a dwelling and an outbuilding (number 26) located directly to the east of the application site and a dwelling and buildings (number 20 Windmill Road) located to the west.

26. Previous appeal decisions have stated that consideration should be given to the distance between buildings in an existing continuous and built up frontage when considering how many dwellings will fit in a potential gap.

27. In this instance, the size of the gap (measured from the outbuilding at no 26 Windmill Road to the outbuilding at number 20 Windmill Road) is approximately 220m in width.

28. The plot sizes (frontages) that exist along this part of the Windmill Road range between 45 – 77m. It is contended that the gap presented (approx. 220m) with this application could accommodate 3 dwellings each having a frontage in excess of 70m which is at the upper limit of existing frontages in the immediate area.

29. It is therefore contended that the gap could accommodate more than two dwellings and as such, is considered too big and contrary to policy CTY 8 which permits a maximum of 2 dwellings.
Integration and Design of Buildings in the Countryside

30. 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. Policy CTY 13 requires that buildings visually integrate into the surrounding landscape.

31. It is contended that the proposed buildings would be prominent features in the landscape when viewed along the existing site frontage and when travelling in both directions along Windmill Road. The proposed dwellings are located along the ridge and will be highly visible for a considerable distance. Locating 2 dwellings within this context is considered to be unacceptable. The site is visually extremely exposed due to lack of any intervening vegetation, any form of enclosure and a rising topography. There is currently no boundary in place along the southern edge of the application site.

32. The determination of integration is based on an assessment as to how well a development will blend unobtrusively with its immediate and wider surroundings. The main criteria against which the degree of visual impact is considered is the position of buildings, enclosure, natural boundaries and intervening vegetation between the site and critical views.

33. In this case the site lacks established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape. The development would rely primarily on the use of new landscaping for integration failing to blend with the existing landform, slope which provide a backdrop. The proposal is therefore considered to be contrary to policy CTY 13.

Rural Character

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

35. It is contended that the proposal would be unduly prominent in the landscape, and it will not respect the traditional pattern of development within the area. Thus the proposal is contrary to policy CTY 14.

Development Relying on Non-Mains Sewerage

36. Policy CTY 16 - Development Relying on Non-Mains Sewerage states that planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.

37. The P1 Form indicates that a foul sewage will be disposed of via a septic tank. Environmental Health have been consulted and responded with no objections providing all relevant statutory permission for the development would be obtained.
38. It is therefore contended that the erection of a dwelling at this location served by a septic tank will not create or add to a pollution problem in the area.

Archaeology and Built Heritage Considerations

39. PPS 6 sets out the Department's planning policies for the protection and conservation of archaeological remains and features of the built heritage.

40. Policy BH 11 - Development affecting the Setting of a Listed Building states that planning authorities will not normally permit development which would adversely affect the setting of a listed building.

41. The application sites is in close proximity to an archaeological enclosure (DOW 021:012), Annahilt Presbyterian Church, Windmill Road, which is a Grade 2 listed building of special architectural and historic importance and as such, is afforded protection in accordance with section 80 of the Planning Act 2011.

42. Historic Environment Division has considered the impacts of the proposal on the building and based on the information provided has advised that the proposed dwellings are sufficiently removed in situation and scale from the listed building as to have no impact. This advice is based on the fact that the location of the house and garage into the east of the application site does not move further southwards that the suggested location in the associated block plan.

Access, Movement and Parking

43. PPS 3 – Access Movement and Parking sets out policies to ensure that any new development does not create a traffic hazard and that any proposed development can have a safe access/egress onto the public road.

44. The P1 Form indicates that the proposed development will involve the construction of a new access to a public road. Transport NI have been consulted and offer no objection in principle to this development subject to standard conditions and informatives. Additional information regarding site splays and in curtilage car parking will be required at the Reserved Matters stage.

45. It is therefore contended that the proposal as presented will not create a traffic hazard and that safe access and egress onto the public road can be provided.

Conclusion

46. Based on careful consideration of all relevant material considerations, it is contended that the proposed development fails to satisfy the relevant policy tests.
47. It is recommended that planning permission is refused.

48. The following refusal reasons are recommended:
   - The proposal is contrary to the SPPS and Policy CTY 8 of Planning Policy Statement 21 – Sustainable Development in the Countryside, in that the proposal does not constitute a small gap in a substantial and continuously built up frontage and would if permitted, result in the creation of ribbon development along Windmill Road.
   - The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that: the proposed building is a prominent feature in the landscape, lacks long established natural boundaries to provide a suitable degree of enclosure for the building to integrate into the landscape, relies primarily on the use of new landscaping for integration and fails to blend with the landform, slopes and other natural features which provide a backdrop and therefore would not visually integrate into the surrounding landscape.
   - The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: the buildings would, if permitted, be unduly prominent in the landscape, and would not respect the traditional pattern of settlement exhibited in that area which would therefore result in a detrimental change to the rural character of the countryside.
Site Location Plan – LA05/2017/0472/O
Summary of Recommendation

1. This is a local application. The application is presented to the Committee in accordance with the Protocol for the Operations of the Planning Committee.

2. The application is presented to the Planning Committee with a recommendation to Refuse.

Description of Site and Surroundings

3. The application site is located adjacent to a number of residential properties on the eastern side of Pond Park Road Lisburn. Access is proposed from an existing access onto Pond Park Road. At the time of site inspection a volume of stone had been deposited on a portion of ground beyond the access to form a laneway which currently extends to land further north east. The laneway itself runs parallel with the boundaries of existing residential properties up to the application site.

4. Views of the application site are restricted from Pond Park Road by existing buildings and mature vegetation. The application is hard surfaced in contrast with agricultural land further to the north and east.
Proposed Development

6. Full planning permission is sought for a proposed Farm Dwelling under CTY 10 and CTY2a Policies of PPS21.

Relevant Planning History

7. There is no previous planning history regarding a proposed farm dwelling on the application site. The following indicates planning history that affects this site.

<table>
<thead>
<tr>
<th>Application Reference</th>
<th>Description of Proposal</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>S/2007/0724/F</td>
<td>112A Pond Park Road, Lisburn - Garden of House - Stables.,(B) 112A Pond Park Road, Lisburn -Land adjoining for sand school &amp; menage</td>
<td>Withdrawn</td>
</tr>
</tbody>
</table>

Planning Policy Context

8. The relevant planning policy context which relates to the application is as follows:
   - Local Development Plan
   - Strategic Planning Policy for Northern Ireland (SPPS): Planning for Sustainable Development: Dwellings on Farms
   - Planning Policy Statement 2 Natural Heritage
   - Planning Policy Statement 3 (PPS 3): Access, Movement and Parking
   - Planning Policy Statement 6 (PPS 6) : Planning Archaeology and the Built Heritage
   - Planning Policy Statement 21 (PPS 21) : Sustainable Development in the Countryside

Consultations

9. The following consultations were carried out:

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>DfI Roads</td>
<td>Objection</td>
</tr>
<tr>
<td>LCCC Environmental Health</td>
<td>No objection</td>
</tr>
<tr>
<td>DAERA Agriculture, Environment and Rural Affairs:</td>
<td>No objection</td>
</tr>
<tr>
<td>NI Water</td>
<td>No objection</td>
</tr>
<tr>
<td>Department of Communities Historic Environment Division Archaeology</td>
<td>No objection</td>
</tr>
<tr>
<td>NIEA Natural Heritage</td>
<td>No objection</td>
</tr>
<tr>
<td>NIEA Water Management Unit.</td>
<td>No objection</td>
</tr>
</tbody>
</table>
10. Six letters of representations have been received in opposition this application. The following issues have been raised:
   ▪ Principle of Development in Rural Area
   ▪ Road Safety
   ▪ Flooding and damage as a result of construction works
   ▪ Agricultural Access Only
   ▪ Proposal does not comply with Policy CTY10 as there are no buildings to visually link or cluster with
   ▪ Proposal does not comply with Policy CTY 2a

11. The main issues to consider in the determination of this planning application are:
   ▪ Local Development Plan
   ▪ Principle of Development
   ▪ PPS 21 Sustainable Development in the Countryside
     - Dwelling on Farm
     - New Dwellings in existing clusters
     - Integration and Design of Buildings in the Countryside
     - Rural Character
     - Development relying on non-mains sewerage
   ▪ PPS 3 Access, Movement and Parking
   ▪ Planning, Archaeology and the Built Heritage: Archaeology.

Local Development Plan

12. The adopted Belfast Metropolitan Area Plan 2015 (BMAP) has been quashed as a result of a judgement in the Court of Appeal delivered on 18th May 2017. As a consequence of this, the Lisburn Area Plan 2001 (LAP) is now the statutory development plan for the area with draft BMAP remaining a material consideration. Neither the LAP nor the draft BMAP contain any designation or zoning affecting the application site.

13. The site is located beyond any settlement limit defined in the LAP and within the Draft BMAP it is located within an Area of High Scenic Value (AoHSV). In addition to prevailing planning policy, development within an AoHSV should have regard to siting, massing, scale and design, materials, finishes and landscaping proposals to ensure it will integrate well into the topography and landscape and to respect the scale of, and materials used, in existing vernacular buildings in the area. It is considered, if approved that these matters can be considered through a future planning application of reserved matters. Plans accompanying this proposal should be conditional only so far as the siting and design of the proposal shall generally accord with the details contained therein.
Principle of Development

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

15. The Strategic Planning Policy Statement (SPPS) published in September 2015 states that until the Council adopts the Plan Strategy for its new Local Development Plan there will be a transitional period in operation. During this period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.

16. The SPPS states that ‘Planning authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance’.

17. The application proposes a dwelling house in the countryside. The policy tests associated with the SPPS and PPS 21: Sustainable Development in the Countryside are material considerations in the determination of this application.

Sustainable Development in the Countryside

18. PPS21 - 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.

19. Policy CTY 1 – Development in the Countryside makes reference to a number of circumstances when planning permission will be granted for individual dwelling houses in the countryside.

   Dwelling on Farms

20. Policy CTY 10 - Dwelling on Farms states that planning permission will be granted for a dwelling on a farm where all of the following criteria can be met:

   (a) the farm business is currently active and has been established for at least 6 years;

21. The Planning Statement submitted with the planning application states that the Colgan family currently reside at Lowick Hall Farm in Northumberland. The farm business covers 825 acres of land in Northern Ireland and England. The DARD maps submitted with the application indicate 23.22 hectares of land in Northern Ireland. DAERA have confirmed that the farm business has been established for
the requisite 6 year time period and that it has claimed Single Farm Payment (SFP), Areas of Natural Constraint (ANC) Payment or Agri Environment Scheme Payment in the past year.

22. The P1C form states that the applicants Business ID has been allocated from 2005 and farm business established in 1970s. The applicants farm on the fields identified in farm maps provided, involves the purchasing of bulking heifers each spring which graze the land of 23.22 hectares which clarifies the active and established business practise. The application site comprises a plot size of 1.3 hectares

23. Based on the information provided and confirmation from DAERA, it is contended that the farm business is currently active and established for at least 6 years and as such, this policy test (a) has been satisfied.

(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008;

24. The supporting statement and P1c form that accompany this planning application advises that no dwellings or development opportunities have been sold off from this farm holding. As such this proposal complies with this policy test of Policy CTY10.

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
- Demonstrable health and safety reasons; or
- Verifiable plans to expand the farm business at the existing building group(s)

25. With regards to the siting of the proposal; it is considered that the proposed dwelling is not visually linked or sited to cluster with a group of buildings on the farm and it has not been demonstrated that there are no other sites available.

26. The agent submitted further information in support of the application to take into account criterion (c) of Policy CTY 10.

27. Reference was made to planning appeal 2013/A0050 which considered published advice issued by the Department of the Environment. This advice made reference to circumstances where the farm holding has no buildings or a group of farm buildings for a dwelling to visually link or cluster with. A planning approval granted by the Department of the Environment was also highlighted S/2011/0351/F. The Agent considers both cases represent an established approach to dealing with criterion (c) when there are no buildings or a group of farm buildings for a dwelling to visually link or cluster with.
28. A court judgement ref. TRE9118 made 15/01/2014 states the following -

Policy CTY 10 makes no mention of proposals on farm holdings on which there is one or less buildings for the proposed dwelling to group with. It is contended that the Departmental unpublished guidance seeks to remedy this deficiency by giving guidance to planning officers in making decisions on applications in these situations. As a matter of common sense it is not a ‘guide’ as to the application of the CTY 10 as written, but in fact adds to that policy and creates more policy to be relied upon. As a document creating policy to be followed it should have been composed within the guidelines set out in the Planning (Northern Ireland) Order 1991.

29. As a result of this court judgement the Departmental advice referred to was subsequently withdrawn.

30. Planning appeal 2015/A0195 is relevant to the circumstances of this current proposal. Paragraph 9 of the related decision states

Criterion (c) of Policy CTY 10 requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm. The appellant’s holding comprises a single field alongside Artymagh Road within which there are no buildings. The appellant has excavated a level gravelled yard immediately north of the appeal site where he has placed a number of containers separated by a sheep pen. Notwithstanding the appellant’s argument that the policy does not support farmers trying to set up a new farm business, these structures are not buildings and do not comprise an established group of buildings on a farm within which to set a farm dwelling as required under criterion (c). I (the Commissioner) conclude that criterion (c) has not been met.

31. Another appeal decision of relevance is 2015/A0144. At paragraph 6 it states, I further consider that one building does not constitute a group. In this context I conclude that the proposed dwelling would not be visually linked or sited to cluster with an established group of buildings on the farm and that consequently, criterion (c) of Policy CTY 10 would not be met.

32. In light of the above assessment, it is considered that the proposal fails to comply with Policies CTY 1 and CTY 10 part (c) of PPS21 as there is no group of buildings at this location on this farm holding to which the proposal can be grouped. Additionally no case has been put forward to justify the current proposal under the listed exceptions as to why this location is the most appropriate for health and safety reasons or planned expansion at another group of farm buildings on the holding. The supporting information accompanying the application seeks to rely solely on placing the proposal beside existing residential properties adjacent but outside of the farm holding.
New Dwellings in Existing Clusters

33. Policy CTY 2a will grant permission for a dwelling at an existing cluster of development provided;

- the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings) of which at least three are dwellings;
  - the cluster appears as a visual entity in the local landscape;
- the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,
- the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- development would not adversely impact on residential amenity.

34. The information submitted in support of this proposal expresses a view that a dwelling could be grouped with buildings in this area and as such an existing cluster of development occurs at this location.

35. However it is contended that this proposal fails the criteria set out in Policy CTY 2a as this group of buildings are not associated with a social/ community building or focal point. This is further evidenced by the fact that the group of buildings are not located at a crossroads, thus the assertion that this is an existing cluster as defined by Policy CTY 2a fails the most critical elements of that policy test. The lack of a social/community building, focused on a crossroads does not result in this group of buildings appearing as a visual entity in the local landscape.

Integration and Design of Buildings in the Countryside

36. 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.

37. This outline application does in this case indicate the siting of the dwelling and the access laneway to the site. It is considered that the proposed development does not comply with part (g) of CTY 13 in that the proposed dwelling on a farm is not visually linked or sited to cluster with an established group of buildings on a farm. In this instance there are no farm buildings to visually link with or cluster with an established group of buildings on the farm and would fail to conform with PPS 21 CTY 13 part (g). An additional refusal reasons is therefore recommended.

Development relying on non-main sewerage

37. 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.’

38. A septic tank is proposed to the south eastern portion of the site. Water Management Unit and Environmental Health have been consulted and offer no
objections providing all relevant statutory permission for the development would be obtained.

39. It is therefore contended that the erection of a dwelling at this location served by a septic tank will not create or add to a pollution problem in the area.

**Access, Movement and Parking**

40. PPS 3: Access Movement and Parking, Policy AMP 3 Access to protected routes sets out policies to ensure that any new development does not create a traffic hazard and that any proposed development can have a safe access/egress onto the public road.

41. The proposed access has been assessed by DfI Roads who have concerns that the Pond Park Road, being such a protected route will be affected to such an extent by the intensification of use of an existing access. As such this proposal would prejudice the free flow of traffic on that route and conditions of general safety at that point of the road. As such access and egress should be strictly controlled. It is therefore recommended that this proposal is unacceptable and should be refused for that reason.

**Planning, Archaeology and the Built Heritage**

42. PPS 6 – Planning, Archaeology and the Built Heritage sets out planning policies for the protection of Archaeology and the Built Heritage.

43. The Department of Communities Historic Environment Division Monuments have been consulted and they have responded to advise that they have no objections.

**Consideration of Representations**

44. Consideration of issues raised by way of third party representation are set out below.

**Principle of Development in Rural Area**

45. The report demonstrates above how the principle of a dwelling at this location is contrary to planning policy.

**Road Safety**

46. As detailed above, DfI Roads have expressed concern in relation to the proposal and have recommended refusal.

**Flooding and damage as a result of construction works**

47. The developer is responsible for ensuring that construction does not impact upon infrastructure or existing residential properties.
Agricultural Access Only

48. The access point serves the existing dwelling No. 112a Pond Park Road, as denoted by the gate posts at the road edge, however it is noted that that property utilises an additional access approximately 50 metres north that it shares with No’s 112, 114 and 116 Pond Park Road. Whilst it is not considered to be a solely agricultural access, DfI Roads considers its intensification unacceptable given the status of the public road and the volume and speed of traffic using it between Lisburn, the International Airport, Antrim and surroundings.

Proposal does not comply with Policy CTY10 as there are no buildings to visually link or cluster with

53. The proposed development does not comply with Policy CTY 10 as the properties relied on are not connected to the farm business.

Proposal does not comply with Policy CTY 2a

54. The proposed development is not cited at a cross roads or associated with a focal point.

Conclusions

49. Based on careful consideration of all relevant material planning considerations, it is contented that the proposed farm dwelling is contrary planning policy.

Recommendation

50. It is recommended that planning permission is refused.

Reasons

51. The following refusal reasons are recommended.
   - The proposal is contrary to the SPPS and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.
   - The proposal is contrary to the SPPS and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point and is not located at a crossroads.
   - The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the intensification of use of an existing substandard access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.
Lisburn & Castlereagh City Council

<table>
<thead>
<tr>
<th>Council/Committee</th>
<th>Planning Committee</th>
</tr>
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<tbody>
<tr>
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<td>8 January 2018</td>
</tr>
<tr>
<td>Committee Interest</td>
<td>Local Application (Called-in)</td>
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<tr>
<td>Application Reference</td>
<td>LA05/2017/0710/O</td>
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<tr>
<td>Date of Application</td>
<td>6 July 2017</td>
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<td>District Electoral Area</td>
<td>Downshire West</td>
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<td>Proposal Description</td>
<td>Proposed dwelling and garage as per PPS 21 CTY 8</td>
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<tr>
<td>Location</td>
<td>Lands adjacent to and immediately north of 6 Edentrillick Hill, Hillsborough</td>
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<tr>
<td>Applicant/Agent</td>
<td>Mr &amp; Mrs Bell/WHW Design Ltd</td>
</tr>
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<td>Representations</td>
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<td>Case Officer</td>
<td>Margaret Manley</td>
</tr>
<tr>
<td>Group Recommendation</td>
<td>REFUSAL</td>
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Summary of Recommendation

1. This application is categorised as a local planning application. It is presented to the Committee for determination in accordance with the Protocol for the Operation of the Planning Committee.

2. The application is presented with a recommendation to refuse.

Description of Site and Surroundings

3. The application site is located adjacent and north of No. 6 Edentrillick Hill, Hillsborough and currently serves as a garden area for this dwelling. No. 6 is a modest detached bungalow.

4. The north and west boundaries of the site are defined by a small timber fence. The east boundary is defined by a neat hedgerow which serves to separate the site from the curtilage of neighbouring dwelling no. 8 Edentrillick Hill. The topography of the site falls gently from the north to south.
5. The area surrounding the site is rural in nature and a number of single dwellings are dispersed throughout the area. Development within close proximity of the site includes no. 6 Edentrillick Hill, a modest bungalow located immediately to the south and no.8 Edentrillick Hill, also a bungalow, located adjacent and east of the site. Other neighbouring development includes no. 4 Edentrillick Hill located approximately 150 metres south-east of the site and no. 3 Edentrillick Hill and a number of associated agricultural buildings which are located a short distance north-west of the site on the opposite side of Edentrillick Hill Road.

Proposed Development

6. Outline planning permission is sought for a dwelling and garage on lands adjacent to and immediately north of 6 Edentrillick Hill, Hillsborough in accordance with Policy CTY8 of Planning Policy Statement 21.

Relevant Planning History

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

<table>
<thead>
<tr>
<th>Application Reference</th>
<th>Site Address</th>
<th>Description of Proposal</th>
<th>Decision</th>
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<tbody>
<tr>
<td>S/1999/0578/A41</td>
<td>6 Edentrillick Hill,</td>
<td>Proposed Conservatory</td>
<td>Permitted Development</td>
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<tr>
<td></td>
<td>Edentrillick, Hillsborough</td>
<td></td>
<td>27.07.1999</td>
</tr>
</tbody>
</table>

Planning Policy Context

8. The relevant planning policy context which relates to the application is as follows:
   - Regional Development Strategy 2035
   - Lisburn Area Plan 2001
   - Draft Belfast Metropolitan Area Plan (BMAP) 2015
   - Strategic Planning Policy Statement for Northern Ireland (SPPS)
   - Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside
   - Planning Policy Statement (PPS) 3: Access, Movement and Parking

Consultations

9. The following consultations were carried out:

<table>
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<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transport NI</td>
<td>No objections subject to conditions</td>
</tr>
<tr>
<td>Environmental Health</td>
<td>No objections</td>
</tr>
<tr>
<td>NI Water</td>
<td>Informatives</td>
</tr>
</tbody>
</table>
Representations

10. No letters of objection were received in respect of this application.

Consideration and Assessment

11. The main issues to consider in the determination of this planning application are:
   - Principle of development
   - Sustainable Development in the Countryside
   - Ribbon Development
   - Integration and design
   - Rural character
   - Access movement and car parking

Principle of Development

12. 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.

13. On 18 May 2017, the Court of Appeal ruled that the purportedly adopted Belfast Metropolitan Area Plan 2015 had in its entirety, not been lawfully adopted. As a consequence of this decision, the Lisburn Area Plan 2001 (LAP) is now the statutory development plan for the area with draft BMAP remaining a material consideration.

14. The application site is identified in Lisburn Area Plan 2001 as being within the green belt, outside of any defined settlement limit. It is also located within the Countryside in accordance with the Draft Belfast Metropolitan Area Plan 2015.

15. The Strategic Planning Policy Statement (SPPS) published in September 2015 states that until the Council adopts the Plan Strategy for its new local Development plan there will be a transitional period in operation. During this period, planning policy with 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.

16. Paragraph 3.8 of the SPPS indicates 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.

17. The aim of the SPPS with regard to the countryside is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development, while supporting and sustaining rural communities consistent with the RDS.
18. The application proposes a dwelling and garage in the countryside and as such, the proposal must comply with the policy tests associated with Planning Policy Statement 21: Sustainable Development in the Countryside.

Sustainable Development in the Countryside

19. This application site is within a rural location as set out in the LDP, the Lisburn Area Plan 2001 and the draft Belfast Metropolitan Area Plan 2015.

20. Planning Policy Statement 21 - Sustainable Development in the Countryside contains the applicable suite of policies for proposed development in such a countryside location. It lists the range of development which in principle are considered acceptable and which will contribute to the aims of sustainable development.

21. Policy CTY1 of PPS21 – Development in the Countryside, references circumstances where planning permission will be granted for dwelling houses in the countryside. Policy CTY1 is applicable to this proposal in so far as it directs consideration of this proposal for an infill dwelling to Policy CTY8 of PPS21.

Ribbon Development

22. Policy CTY8 - Ribbon Development, states that planning permission will be refused for a building which creates or adds to a ribbon of development.

23. Policy CTY8 also states that 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.

24. 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.

25. A building has a frontage to a road if the plot on which it stands abuts or shares a boundary with the road. In this instance there are 4 buildings with a road frontage. These include no. 8 Edentrillick Hill to the east of the site and no. 6 Edentrillick Hill to the south of the site. No. 4 Edentrillick Hill and its detached garage/stables to the south-east of no.6 also have a road frontage. It is therefore concluded that an otherwise substantial and continuously built up frontage exists.

26. Although the application site is currently the garden area for no. 6 Edentrillick Hill it is considered that it does not constitute a small gap site within this frontage of sufficient size to accommodate one dwelling.
27. Policy CTY8 also states that any proposal should respect the existing development pattern along the frontage in terms of size, scale, siting and plot size.

28. As this is an outline application details of the proposed house type and position have not been submitted however the size of the proposed plot is clear from the drawings. It is also clear from the drawings that the existing dwellings at nos 4, 6 and 8 Edentrillick Hill are currently set in generous plots.

29. No. 6 Edentrillick Hill has an approximate plot size of 2877 m², no. 8 has an approximate plot size of 3325 m². No. 4 Edentrillick Hill has a plot size of approximately 6934 m².

30. If approved the proposed dwelling would have a plot size of approximately 1276 m² which in turn would reduce the plot size of no. 6 to 1654 m². It is considered that these reduced plots fail to respect the existing development pattern which are all larger in scale.

31. The agent has submitted a map in conjunction with this application outlining ‘similar’ surrounding plot sizes however the drawing does not appear accurate and does it depict a true reflection of the actual plot size. The plot size of no.9 and 11 are much bigger and extend much further than indicated on the map.

32. It is therefore concluded the proposal fails to respect the existing development pattern along the frontage in terms of plot size.

33. The agent has also submitted a copy of a recent appeal decision which he believes is reflective of the current application (Planning Appeals Commission reference 2015/A0091 Council Reference S/2014/0818/O). It is contended that this appeal site is not directly comparable to this current application as the sites and surrounding areas are different contextually. The specific site circumstances of this appeal site are not replicated in this current application site.

34. It is therefore contended that the proposal is contrary to Policy CTY8 as it fails to respect the existing development pattern and plot size along the Edentrillick Hill road frontage.

Integration and Design

35. 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.

36. It is considered that a dwelling on the application site would not be a prominent feature in the landscape provided it is of an appropriate modest scale. Additional
supplementary planting will ensure that a dwelling on the application site integrates into the surrounding landscape.

**Rural Character**

37. Policy CTY14 of PPS21 will grant permission for a building in the countryside, provided it complies with other applicable policies of PPS21, if it does not further erode the rural character of the area.

38. Within the policy context of Policy CTY14 it is contended that this proposal does not respect the traditional pattern of settlement exhibited in the area in relation to the plot sizes and is therefore considered contrary to this Policy.

**Development Relying on Non-Mains Sewerage**

30. 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.

31. A septic tank is proposed. Environmental Health have been consulted and responded with no objections providing all relevant statutory permission for the development would be obtained.

32. It is therefore contended that the erection of a dwelling at this location served by a septic tank will not create or add to a pollution problem in the area.

**Access, Movement and Parking**

33. PPS 3 – Access Movement and Parking sets out policies to ensure that any new development does not create a traffic hazard and that any proposed development can have a safe access/egress onto the public road

34. Transport NI have been consulted and offer no objection in principle to this development subject to standard conditions and informatives. Additional information regarding site splays and in curtilage car parking will be required at the Reserved Matters stage.

35. It is therefore contended that the proposal as presented will not create a traffic hazard and that safe access and egress onto the public road can be provided.

**Conclusions**

36. Based on careful consideration of all relevant material considerations, it is contended that the proposed development fails to satisfy the relevant policy tests.
37. It is recommended that planning permission is refused.

38. The following refusal reasons are recommended:

- The proposal is contrary to the Strategic Planning Policy Statement 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 Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal fails to respect the existing development pattern along the road frontage in terms of plot size.

- The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted, would not respect the traditional pattern of settlement exhibited in the area would therefore further erode the rural character of the countryside.
Site Location Plan - LA05/2017/0710/O

Red line denotes site boundary.
Purple lines denote similar surrounding plot sizes.

Shaded structures denote existing buildings providing a substantial and continuously built up frontage with curtilage to road frontage.
Dear All

NILGA will be hosting an information morning for elected members in relation to the Planning Portal on 23rd January 2018. This event, to be held in the Coleraine offices of Causeway Coast and Glens BC, is designed to enable members to receive an update on this area of work, on the business case, a summary of the process - what’s been completed so far and the direction of travel, and to give them an opportunity to ask questions and make comments directly to DfI and to the consultants.

It is anticipated that Angus Kerr and Peter Rice from DfI will be speaking, as well as representatives from PA Consulting, who are taking forward the current stage of work.

AGENDA

10.30am Tea, Coffee, Scones
11.00am Welcome and Introductions
11.10am Presentation
11.40am Q&A/Discussion
12.30pm Lunch

Although this event is open to all planning committee members I would be grateful if you could respond with a list of nominees, to assist with catering and seating arrangements. It would be helpful if you could provide me with this information by 13th January at the latest.

Please do not hesitate to contact me, should you have any queries.
Kind regards
Karen

Karen Smyth
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Web: www.nilga.org
Northern Ireland Planning Portal (NIPP) – Strategic Direction

Need for a new planning IT system

The NI Planning Portal’s primary purpose is to assist the 11 councils and the Department with carrying out their statutory planning functions. This includes processing planning applications, planning consents, enforcement cases, etc. A separate but interlinked IT system is also operated by the councils’ Regional Property Certificate Unit. The system is also used by the public, planning agents, solicitors and consultees and handled over 13,000 planning applications last year.

The NIPP was developed over ten years ago when the Department was the single planning authority for Northern Ireland. While the portal is still operational, it is reaching the end of its operational life and no longer meets all of the needs of users. The contract for the maintenance and support of the system ends in March 2019.

Plan for identifying a new planning IT system – Discovery

The Department and local government colleagues have been working together to identify the way forward for a new planning IT solution. The first phase of this work was to undertake a Discovery exercise over the summer to identify the key requirements of any new system. This work involved engagement with a wide range of stakeholders from local government, central government and other organizations, which helped to identify the key functions and features required. The key functions include:

- Ability to accept online applications in order to move towards a paperless process
- Ability to accept online payments
- Ability to manage and monitor large volume of planning applications
- Notifications and alerts for application updates for all users of the system
- A consistent mapping service with easy to select mapping layers with each planning Authority having the ability to manage their own default filters
- A search function that will allow users’ to interrogate the system across several different search criteria, and enable each planning Authority to create and save their own standard searches.
- Ability for each planning Authority to manage, customize and maintain their own templates, and library of conditions and refusal reasons.
- Ability for each planning Authority to produce their own core reports including Key Performance Indictor reports.

At this stage the new system will also include property certificates although this will need to be confirmed.

The Discovery phase also identified the following potential business solutions:

- One shared IT system that is collectively managed / controlled
- One shared IT system that is collectively managed / controlled but with local control for specific functions
- One shared public facing IT system with multiple independent back-office IT systems for each local council and the Department
• Twelve standalone IT systems – one for each local council and the Department

Plan for identifying a new planning IT system – Business Case

The second phase of this project is to develop a business case and PA Consulting were recently appointed to undertake this work, which is due to be completed in early 2018.

As part of the business case, the consultants will be working with central and local government to identify the costs, potential savings and benefits of a new IT system. This will include meeting up to 13 potential IT suppliers during the first two weeks in December, as part of a market sounding exercise.

The consultants will use this information as well as the outcomes from Discovery to identify potential options for a new planning IT system or systems. A long list of options will be considered and sifted to produce a short list. The criteria used for sifting these options will be developed in the coming weeks. This will include the potential suitability of these options, such as the functionality of the proposal, as well as the feasibility of implementation with issues such as data migration and timescales for implementation.

These shortlisted options will then be appraised using HMT Green Book guidance and the Northern Ireland Guide to Expenditure Appraisal and Evaluation to ensure a decision is reached which represents value for money. The key elements of this appraisal are outlined below and will be developed further during December to reflect the feedback from the market sounding exercise.

- estimate the monetary costs and benefits;
- identify and compare non-monetary benefits (such as usability by staff and public);
- risk assessment;
- outline affordability and funding considerations; and
- plan for the project to be appropriately monitored, managed and evaluated.

The outcome is for PA Consulting to develop a business case that will provide an impartial view of the available options and to identify a preferred option for a new planning IT solution, and recommend arrangements for implementation of this preferred option. The business case will then be considered by the councils and the Department to agree a way forward.
Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal relate to the principle of a dwelling in this countryside location and whether it would harm rural character.

3. Section 45 of the Planning Act (Northern Ireland) 2011 (the Act) requires the Commission, in dealing with an appeal, to have regard to the local development plan (LDP), so far as it is material to the application, and to any other material considerations. The Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful in May 2017. Therefore, the Lisburn Area Plan 2001 (LAP) operates as the statutory LDP for the area where the appeal site is located. It identifies the appeal site as being within a Green Belt (GB), but it provides no determining policies for dwellings in the countryside. Also, the policy provisions of Planning Policy Statement 21: "Sustainable Development in the Countryside" (PPS 21) took precedence over GB designations in statutory development plans upon its publication in June 2010. The draft BMAP identifies the site as being in countryside, but again contains no associated determining policies.

4. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and those of PPS21 in respect of the proposed development. Therefore, the provisions of PPS21 provide the policy basis on which to consider the appeal.

5. Policy CTY 1 of PPS 21 specifies a range of types of development considered acceptable in principle in the countryside and that will contribute to the aims of sustainable development. One of these allows for a dwelling on a farm in accordance with Policy CTY 10 thereof. The last paragraph of Policy CTY 10 says
that a proposal for a dwelling by those involved in the keeping and breeding of horses for commercial purposes will also be assessed under the criteria set out in this policy. Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where all of three criteria can be met. The Planning Authority (PA) considers that the proposal fails to comply with criteria (a) and (c). The former requires that the farm, or in this case the equine business, should be currently active and established for at least 6 years. Paragraph 5.43 of the Justification and Amplification to Policy CTY 10 says that appellants will have to provide sufficient information to demonstrate a level of involvement commensurate with commercial activity over the requisite period of six years and sets out should be included.

6. The appeal site includes: an existing building for which planning permission was given in 2002 as an agricultural shed for the storage of farm machinery and feeding for livestock (S/2001/1668/F); and a domestic horse paddock for which permission was granted in 2013 (S/2011/0358/F). The appellant advises that: he has "an equestrian interest"; has a number of standard bred horses on this holding; is a member of an associated club for breeding and training that breed of those horses; that he has up to four mares in foal at any given time and possibly as many young foals; and that the shed is used for storing feedstuff for the horses and valuable carts and harnesses. I observed a horse-lorry parked on site and a mare grazing. In considering whether the proposal satisfies criterion (a) of Policy CTY 10, the following matters are relevant:

- There is no statement of commercial rateable history for the business or appropriate insurances;

- Appendix 1 within the appellant's statement of case includes photocopies of 6 horse passports. 3 are issued by The Standardbred and Trotting Horse Association of Great Britain and Ireland. The others are in French - one issued by Le Trot and the other 2 by Cheval Francais. There is no indication of their date of issue. In respect of 5, there is no indication of whether the horses are owned by the appellant or his address. A receipt for new registration of a foal issued to the appellant, at what appears to be a misspelt version of his current residence at Budore Road, dated October 2013, shows that one of those animals was registered to him on that date;

- An order form for selected stallion semen dating from March 2001. The cited mare is not one of the horses to which the aforementioned horse passports relate. Albeit that the appellant is stated to be her owner and his address is given as that of the appeal site, the form is not signed or dated. There is no indication that a purchase was made, insemination carried out or a foal subsequently born;

- The letter dated 31.07.07 from the Standardbred & Trotting Horse Association of Great Britain and Ireland, was issued to the appellant but does not include his address. It refers to a replacement passport and mark-up forms/kits for various foals. There is no evidence that any of these horses are those subject of the copies of the aforementioned horse passports, are owned by the appellant or part of an equine business;
The letter from International Stallions, dated February 2000, is addressed to the appellant at a Belfast address. It refers to details of stallions available that year being attached together with an order form and terms and conditions of sale for semen. There is no indication of whether an order was placed or any foals born as a result of subsequent insemination;

The "Stallion Service Agreement" with Oakwood Stud relates to a request by the appellant in September 2017 for a stallion at what is given as his current address at Budore Road on both the planning application and appeal forms. There is no indication that the request was approved by the Stud and that the required fee for the transaction was paid;

2 certificates of mating, dating from 2006 and 2010 shows one animal owned or leased to a "P Seagrave" in Co. Durham. The owner of the second mare is the appellant and his address is given as N Ireland. A 2006 foaling return gives the mare owner's name as "K Rafferty" at the aforementioned Belfast address and one for 2007 relates to the appellant at his Budore Road address;

A letter of September 2017 from Springhill Stud in Co. Dublin advises that the appellant, at the address of the appeal site, has been using their services for the past 15 years and that he has a mare booked for the 2018 breeding season. However, it does not itemise the services, provide details of the dates they were supplied and/or associated invoices. A letter of July 2017 from Doagh Equestrian states that the appellant, at the address of the appeal site, has been getting horse feed and bedding from them for the past 5 years on a regular basis. Neither of these letters are persuasive that the appellant has an equestrian business that is currently active and has been established for at least 6 years;

The letter from Dolmen Services Ltd, who the appellant advises are his accountants, to him at the address of the appeal site, lists payments to various business from May 2008 to October 2017. There is a gap of over 4.5 years from the oldest item to the next oldest at the end of 2012. This raises the possibility of a gap in expenditure with it only resuming less than 5 years ago. In addition, of themselves, the number and quantum of payments (approximately £2,600 over a 9 year period), are not persuasive of commercial activity;

A letter of March 2017 from Auburn Equine Clinic referring to the appellant, at the address of the appeal site, confirms that a vet has been carrying out fertility work for him for the purposes of breeding Standardbreds. The vet advises that once mares are artificially inseminated and pregnancy confirmed, that the animal is returned to the appeal site. It is not supported by invoices, receipts and/or a print-out etc that shows when and over what period these professional services have been provided;

A letter from March 2017 refers to the appellant, at his Budore Road address, renting 10 acres of grassland from the writer in order to graze horses at Budore Road. The land was not identified nor was the letter accompanied by any associated farm map(s). The appellant explains that mares in foal would be kept on the rented land and when ready to give birth would be moved to the appeal site. There is no evidence as to the length of time that this agreement and
practice has persisted;

- The 2011 planning permission refers to a domestic (my emphasis) horse paddock;
- There is no supporting evidence to show that the appellant’s daughter is employed by his equine business carrying out the range of duties attributed to her on a commercial footing; and
- There is no evidence of associated business income.

7. Considered either individually or cumulatively, this evidence is not persuasive that there is an equine business that is currently active and has been established for at least 6 years, which amounts to more than the keeping of horses for hobby purposes. Accordingly, the proposal does not comply with criterion (a) of Policy CTY 10.

8. Criterion (c) of Policy CTY 10 and, in the case of a dwelling on a farm, criterion (g) of Policy CTY 13 of PPS 21 require it to be visually linked or sited to cluster with an established group of buildings on the farm. To the rear of the shed is a mobile home and a smaller structure that appears to provide toilet facilities. There is no dispute that the mobile home is immune from enforcement action. In this evidential context, it and the shed constitute an established group of buildings on the farm. A dwelling on the appeal site, sharing the existing entrance serving the established group, would visually link with it. Accordingly, the fourth reason for refusal is not sustained.

9. Whilst the proposed development would comply with criteria (b) and (c) of Policy CTY 10, as it does not satisfy criterion (a), it is contrary to the policy when taken in the round and the PA’s second reason for refusal is sustained.

10. Policy CTY 8 of PPS 21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Policy CTY 14 says that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of an area. One of the scenarios where a new building will be unacceptable is where it creates or adds to a ribbon of development [criterion (d)].

11. To the south-east of the appeal site is No. 27 Divis Road a bungalow with associated large building that extends beyond the dwelling’s front building line. They share an access. Immediately south-east is an agricultural building, served by its own entrance and lane. When approaching the appeal site from the south-east there is a transient view of this building together with those at No. 27 Divis Road and the appellant’s shed. There is a gap of some 100m between the latter and the curtilage of No. 27 Divis Road. There is a visual break of some 300m between the appellant’s shed and the agricultural building to the north-west on the same side of Divis Road. Therefore, the appeal site is not a small gap site within an otherwise substantial and continuously build up frontage. Travelling north-westwards, the proposed dwelling would add to the existing ribbon of development to the detriment of the character, appearance and amenity of the countryside.
12. From the opposite approach there would be static views of the appellant's shed and the gable end of No. 27 Divis Road together with the proposed dwelling. There would also be a transient view of the proposed dwelling together with all the aforementioned buildings to the south-east, adding to the ribbon of development and further eroding the rural character of the countryside. On this basis, the proposal is contrary to Policy CTY 8 and criterion (d) of Policy CTY 14 of PPS 21 and the PA's third and fifth reasons for refusal are sustained.

13. As the proposal is contrary to Policies CTY 8 and CTY 10 of PPS 21, it does not represent one of the types of housing development considered acceptable in principle in the countryside. Policy CTY 1 goes on to say that other types of development will only be permitted where there are overriding reasons why it is essential and could not be located in a nearby settlement. The appellant refers to the risk of animal and equipment theft and the abandonment of unwanted horses. There is no evidence of any such activity at this site or explanation as to why these concerns could not be addressed by the installation of equipment to allow for remote surveillance and recording of activity. The appellant does not dispute the PA's evidence that his residence is approximately 1.4 miles from the appeal site. Given this relative proximity and the potential for electronic surveillance measures, notwithstanding winter weather conditions on Divis Mountain, there is no persuasive evidence that the absence of on-site accommodation would harm animal welfare.

14. The following matters, considered either individually or cumulatively, do not outweigh the 3 reasons for refusal that have been sustained: the supporter's submission that the appellant would make a good neighbour, helping address feeling of isolation in winter; that the proposed dwelling would be of simple rural form and finish; that existing vegetation would be retained and supplemented; provision of adequate parking and turning space within the site; that use of the existing access would not prejudice road users' safety; that foul sewage could be satisfactorily disposed of; ready availability of mains water; that the proposal would not detrimentally affect neighbours or adjoining land-users by virtue of overlooking, overshadowing, noise, nuisance or other disturbance; and no objection by the PA's consultees to the principle of the proposed development. On this basis, no overriding reasons were advanced to demonstrate how the proposal is essential and why it could not be located in a settlement. The proposal is therefore at odds with Policy CTY 1 of PPS 21 and the first reason for refusal is sustained.

15. The appellant expressed dissatisfaction about perceived unfairness on behalf of the PA's elected representatives and officers in the way they considered of the planning application subject of this appeal. However, such matters are outwith the scope of this appeal. Mr Rafferty chose to pursue his appeal by written representations thereby waiving the opportunity to engage the PA in debate about disputed matters of fact, interpretation of planning policy and to participate in an accompanied site visit.

16. The planning applications for the agricultural shed and domestic horse paddock were considered and approved on the basis of prevailing planning policy at those points in time. Subsequently dismissing this appeal on the basis that it does not comply with current policy is not inequitable. Accordingly, the appeal is dismissed.
This decision is based on Drawing No. KR/001 (stamped drawing No.1 by the PA).

COMMISSIONER JULIE DE-COURCEY
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Decision

1. The appeal is dismissed.

Preliminary Issue

2. The reason for refusal refers only to the issue of the appeal proposal not being in keeping with the character of the area. It does not address the issue of potential impact on residential amenity which the Local Planning Authority (LPA) has sought to introduce in its Statement of Case. The appeal process requires the LPA to justify its reason(s) for refusal as set out in its decision notice but does not offer them the opportunity to introduce additional reasons for refusal. In assessing similar proposals in a different policy context in 2002 and 2003, residential amenity was addressed in the reasons for refusal at that time. The issue of residential amenity was considered during the processing of the planning application with the agent submitting a sketch design and it was concluded at that stage that concerns about adverse impact on residential amenity could be addressed by appropriate design. The re-introduction of this issue in the LPA’s Statement of Case is not good practise and places the appellant at a disadvantage, especially as no rebuttal was submitted on his behalf. I shall therefore only be considering the issue of impact on the character of the area in this appeal.

Reasons

3. Section 45 of the Planning Act (Northern Ireland) 2011 (the Act) requires the Commission, in dealing with an application, to have regard to the local development plan (LDP), so far as it is material to the application, and to any other material considerations. The Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful in May 2017. Therefore the Lisburn Area Plan 2001 (LAP) operates as the statutory LDP for the area with the draft BMAP as a material consideration. Both plans identify the appeal site as lying within the Settlement Development Limits.
(SDL) for Annahilt. The plan does not contain any material policies for dealing with the proposed development; therefore I turn to consider other material considerations.

4. The Strategic Planning Policy Statement (SPPS), which promotes good design, protection of amenity and positive place making, is a material consideration. Paragraph 4.27 of the SPPS states that LPAs will reject poor designs, particularly proposals that are inappropriate to their context, including schemes that are clearly out of scale or incompatible with their surroundings. It identifies Planning Policy Statement 7: Quality Residential Environments (PPS 7) and its Addendum entitled Safeguarding the Character of Established Residential Areas (the Addendum), as retained policy documents. Planning Policy Statement 12: Housing in Settlements (PPS12) and Development Control Advice Note 8: Housing in Existing Urban Areas (DCAN8) are also pertinent in my consideration.

5. Policy QD1 of PPS7 states that within established residential areas, proposals for housing development will not be permitted where they would result in unacceptable damage to local character, environmental quality or residential amenity. Whilst promoting more housing in urban areas, PPS7 also indicates that this should not result in town cramming or damage to areas of distinctive townscape character, with the overriding objective being avoidance of any significant erosion of the local character.

6. The appeal site forms part of the curtilage of No. 284 Ballynahinch Road, a detached one and a half storey dwelling with an integral garage which sits within an extensive curtilage. Finished in part render/part brick with a hipped roof, the existing dwelling is positioned at the junction with Loughaghery Road from which access is provided. The appeal site incorporates the side garden of No. 284, set within an established residential area which contains a mix of plot sizes, frontage widths, setbacks, house types and finishes. Whilst those properties fronting Ballynahinch Road are largely detached with extensive curtilages, those along Loughaghery Road range from modest roadside cottages on the eastern side to elevated bungalows set well back from the public road on the western side.

7. The appeal site incorporates the side garden of the existing property, the gable wall of which it abuts. It extends a maximum width of 43m, including its shared access with No. 284, with its depth ranging from 33m to 48m. The appellant argues that the plot size and setback from the public road is not dissimilar to other plots on the opposite side of Loughaghery Road. I acknowledge that the two cottages directly opposite lie within 6-8m from the public road and have a much smaller curtilage that those immediately adjoining the appeal site. However fronting onto Loughaghery Road, the appeal site must be assessed in the context of the built fabric along the western side of that road which has a distinctive townscape character of singular defined plots with large open front gardens. Nos. 2 and 2a occupy elevated positions reflecting the topography of the area and there is a well-established front building line set approximately 20m back from the public road. The introduction of an additional dwelling and garage so far forward of this building line would create an incongruous feature in the street scene when approaching in both directions along Loughaghery Road which I do not consider would be masked by vegetation on the adjacent plot.
8. The restricted size of the appeal plot would also be clearly visible from the Ballynahinch Road, despite its setback behind the rear elevation of No. 284. Whilst it could provide adequate amenity space for both the existing and proposed properties, it would appear out of scale and incompatible with its immediate surroundings. The proposed subdivision of the existing curtilage of No. 284 would result in town cramming which would create disharmony with the adjacent properties, eroding the established character of the area. I conclude that the appeal proposal finds no support in Policy QD1.

9. The appeal site is lowlying with a backdrop of rising ground but there is no requirement to integrate into the landscape as this is an urban plot. I note that the appellant seeks to downsize and provide a modest dwelling for him and his wife whilst passing the existing dwelling onto a family member who may provide care in later years. However these personal circumstances do not outweigh the policy objections outlined above. This appeal cannot consider the suitability of alternative means of accommodation such as a granny flat. I acknowledge that there are no objections from local residents or statutory agencies. However I am not persuaded that the proposed development would be in keeping with the character of this established residential area or respect the surrounding context. The reason for refusal is therefore sustained and the appeal must fail.

This decision is based on the 1:2500 site location plan date stamped received by the LPA on 5 May 2015.

COMMISSIONER PAULINE BOOMER
List of Documents

Planning Authority: -
- LPA1 Statement of Case from Lisburn and Castlereagh Council
- LPA2 Rebuttal
Section 54 Applications

December 2017

Version 1
Preamble

This Development Management Practice Note is designed to guide planning officers and others engaged in the planning system through the fundamental legislative requirements associated with applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. It forms part of a series of practice notes stemming from the **Planning Act (Northern Ireland) 2011 [the 2011 Act]** and any related subordinate legislation. The emphasis is very much on advice but where explicit legislative requirements must be followed these will be made clear.

Where appropriate this practice note will therefore highlight:

- Relevant legislation;
- Procedural guidance;
- Definitions;
- Best practice examples / relevant case law.

This guidance is not intended to replace the need for judgement by planning officers and those making planning applications. Nor is it intended to be a source of definitive legal advice. Reference should be made to the actual legislation referred to in this document and if any discrepancy or conflict exists between the Practice Note\(^1\) and legislation the provisions of the legislation will prevail.

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\(^1\) Please ensure you are considering the most up to date version of Practice Note 24 available on the Planning Portal at [www.planningni.gov.uk](http://www.planningni.gov.uk) and the most up to date legislation on the legislation website at [www.legislation.gov.uk](http://www.legislation.gov.uk), which is also accessible via the Planning Portal. Furthermore, you are advised to keep up to date with case law.
1.0 Introduction

1.1 Planning permission for development may be granted by a planning authority\(^2\) either unconditionally or subject to such conditions\(^3\) as the authority thinks fit. However, following the grant of planning permission, developers / householders sometimes wish to undertake a development without complying with conditions attached to a planning permission. This may be achieved by the submission of a planning application under section 54 of the 2011 Act and anyone can submit such an application to the relevant planning authority.

1.2 Section 54 is one option available for amending a planning permission. Planning permission may be sought under section 54 to develop land without complying with conditions previously attached to a grant of planning permission\(^4\). It would not be appropriate to make a planning application for the “removal” of a condition, since the removal of a condition does not amount to development\(^5\). However, a section 54 planning permission may have the resultant effect of the removal or variation of a condition previously attached to a permission or the addition of a new condition.

1.3 Another option available for amending a planning permission is provided by section 67 of the 2011 Act. Under section 67, someone who has an estate in the land to which a planning permission relates, may submit an application to the appropriate council for a non-material change to a planning permission\(^6\). A section 67 application is not an application for planning permission, rather it is a procedural mechanism which allows for the making of an amendment to

\(^2\) In this Practice Note, planning authority means a district council or the Department for Infrastructure. In other instances in the document council means a district council unless otherwise stated and Department means Department for Infrastructure unless otherwise stated.

\(^3\) Refer to Development Management Practice Note 20 Use of Planning Conditions.

\(^4\) Section 73 (Determination of applications to develop land without compliance with conditions previously attached) of the Town and Country Planning Act 1990 (TCPA 1990) is similar to section 54 of the 2011 Act and section 73 has been the subject of much of the case law referenced in this practice note. Section 73A (Planning permission for development already carried out) of the TCPA 1990 is similar to section 55 of the 2011 Act.


\(^6\) Refer to Development Management Practice Note 25 Non-Material Change.
an existing planning permission. For such an application to be considered the proposed change must be one which is non-material.

1.4 Although section 54 and 67 applications are options that allow for post-decision changes to be made to existing planning permissions, they are subject to different processes and deliver different outcomes.

1.5 This Practice Note deals predominantly with the legislative power and procedural provisions for a planning application made under section 54. Issues associated with such applications can often be complex and a planning authority and others involved should consider seeking their own legal advice as they see fit.

2.0 Legislative context

2.1 Section 54 of the 2011 Act is a power that allows for an application to be made for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. A section 54 application is submitted to and determined by the planning authority which granted the previous planning permission\(^7\) (section 54(3)).

2.2 Relevant subordinate legislation includes the following:

- Planning (General Development Procedure) Order (Northern Ireland) 2015, hereafter referred to as the “GDPO”\(^8\).

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\(^7\) Refer to paragraph 4.6 for further information on this matter and paragraph 4.7 regarding transitional provisions on which planning authority deals with a section 54 application where the previous planning permission was determined prior to 1st April 2015.

\(^8\) The GDPO was amended by the Planning (General Development Procedure) (Amendment) Order (Northern Ireland) 2016.
• The Planning (Development Management) Regulations (Northern Ireland) 2015, hereafter referred to as the “Development Management Regulations”\(^9\).

• The Planning (2011 Act) (Commencement No.3) and (Transitional Provisions) Order (Northern Ireland) 2015, hereafter referred to as the “Transitional Provisions Order”\(^10\).

• The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017, hereafter referred to as the “EIA Regulations”\(^11\).

• The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995, hereafter referred to as the “Habitats Regulations”\(^12\).

• The Planning (Fees) Regulations (Northern Ireland) 2015, hereafter referred to as the “Fees Regulations”\(^13\).

2.3 Whilst a section 54 application is subject to similar provisions for a standard planning application seeking planning permission for development e.g. publicity, neighbour notification and making representations, it is also subject to a number of special provisions\(^14\) laid out in the GDPO, which differ from some of the provisions for a standard planning application. The special provisions are summarised as follows:

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\(^9\) The Development Management Regulations were amended by the The Planning (Development Management) (Amendment) Regulations (Northern Ireland) 2015.

\(^10\) The Transitional Provisions Order was amended by the Planning (2011 Act) (Commencement No. 3) and (Transitional Provisions) (Amendment) Order (Northern Ireland) 2016.

\(^11\) Refer to regulation 48 of the EIA Regulations.


\(^13\) The Fees Regulations were amended by the Planning (Fees) (Amendment) Regulations (Northern Ireland) 2015.

\(^14\) Refer to section 4.0 (of this document).
Application made to a council or the Department

- **Article 3(5)(b)** – Form and content of an application made under section 54

- **Article 6(4)(a)** – Design and access statement in relation to a section 54 application

- **Article 14 and Schedule 3** – Consultation with statutory consultees in relation to a section 54 application

Application made to the Department

- **Article 21** – Representations, public local inquiry / hearing in relation to a section 54 application

3.0 Section 54 of the 2011 Act – an application for planning permission to develop land without compliance with conditions previously attached

3.1 The main aspects of an application made under section 54 are referred to in the following paragraphs.

What should the planning authority fundamentally establish about a section 54 application?

3.2 A planning authority should fundamentally establish that the application proposal falls within the scope of section 54 as soon as possible after receiving an application, i.e. it should satisfy itself that it is a ‘true’ section 54 application. Such an application is one that complies with the legislative requirements of section 54 and relevant case law and does not propose a change that could not have been considered under the previous (original) planning permission. It is important to ensure that the decision as to whether
or not an application should be accepted under section 54 in the first place is made at the earliest stage possible in order to avoid delay and uncertainty in the development management process. Applications received by a planning authority need to be considered on a case by case basis and the appropriate judgement made as to whether it can be processed and determined under section 54 and such judgement should be recorded on file in a transparent way. It is also important to note for clarification purposes that section 55 of the 2011 Act deals with applications for development already carried out without complying with some condition subject to which planning permission was granted i.e. retrospective applications\(^{15}\).

3.3 If a planning authority considers that a proposal falls outside the scope of section 54, then the application may be rejected as invalidly made. Therefore, a planning authority may refuse to accept an application to vary a condition or conditions on the basis that the application is considered to be for new development (case law: *Derrick Taylor v The Scottish Ministers - Court of Session 27/10/2004*). In the Taylor case, a local planning authority refused to accept an application for the amendment of a condition because it considered the proposal to be a new application for development on the basis that a trout farm would become a site for the deposit of inert material. This stance was supported by a Reporter\(^{16}\) in an appeal, whose decision was upheld by the Court of Session (in Scotland). The court also agreed with the Reporter’s comment that the problem in the appeal was that it depended on:-

> “the fallacious idea that a condition of a planning permission can in effect convey planning permission for substantial development not within the scope of the original application.”

3.4 An applicant / agent may enter into Pre-Application Discussions\(^{17}\) (PADs) with a planning authority in order to establish if a potential application would

\(^{15}\) Refer to paragraphs 3.21 to 3.23 (of this document).

\(^{16}\) A Reporter is the representative of the Scottish Government who considers and, in most cases, decides a planning appeal in Scotland.

\(^{17}\) Refer to Development Management Practice Note 10 Pre-Application Community Consultation (and Pre-application Discussions).
be considered to fall under the scope of section 54 or not and be able to submit the appropriate application and planning fee to a planning authority. An applicant / agent may also seek further advice on specific proposals by contacting the relevant planning authority.18

What must the planning authority consider when dealing with a section 54 application?

3.5 In considering an application made under section 54, the planning authority which granted the previous planning permission must consider only the "question of the conditions" subject to which planning permission should be granted (section 54(3)). In essence, section 54 allows for different conditions to be attached to a new planning permission but does not allow for the amendment of the description of development of the previous (original) permission. A successful section 54 application results in a new planning permission for the same description of development previously approved but with different conditions attached.19 Consequently, the scope of the planning authority is, in principle, more limited when dealing with a section 54 application, although it is also entitled to consider the circumstances that led to the previous (original) conditional grant of planning permission.

What does section 54 tell the planning authority to do when determining an application made under the provision?

3.6 If the planning authority decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, the planning authority must grant planning permission accordingly (section 54(3)(a)).

18Contact details for individual councils and the Department for Infrastructure are available via the Planning Portal at www.planningni.gov.uk.
19 In the circumstances of planning appeal reference 2015/A0126, a section 54 permission granted by a council was considered 'not a variation of the earlier approval, but rather is a second planning permission for the same development'.
3.7 If the planning authority decides that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, the planning authority must refuse the application (section 54(3)(b)).

Are there any legislative restrictions on what section 54 can be used for?

3.8 Section 54 does not apply where a previous planning permission has been granted subject to a condition setting the time within which the development was to be begun and that time has expired without the development having been begun (section 54(4)). Therefore, if a planning permission lapses, then a section 54 application in relation to it cannot be accepted by the planning authority.

3.9 Furthermore, under section 54(5) planning permission must not be granted to the extent that it has effect to change a condition subject to which a previous planning permission was granted by extending the time within which:

(a) a development must be begun\(^20\);
(b) an application for approval of reserved matters (within the meaning of section 62) must be made\(^21\).

3.10 A section 54 permission has the same time period for commencement of development as conditioned in a previous planning permission. An applicant must factor this into the section 54 application when it is being considered for submission. Also, a section 54 permission has the same time period for submission of an application for the approval of reserved matters as conditioned in a previous outline planning permission. Notwithstanding the fact that these time periods cannot be extended through a section 54 application, a planning authority needs to be mindful when dealing with such an application and be astute to consider any issues arising in respect of any time limit imposed on a previous planning permission.

\(^20\) Refer to sections 61, 62 and 63 of the 2011 Act.
\(^21\) Refer to section 63 of the 2011 Act.
3.11 If a developer finds that the existing time condition in a planning permission for a development cannot be met, then the developer may submit another application for planning permission for that development, even when the time period for commencement of development in the previous (original) planning permission has not expired.

3.12 An application made under section 54 to vary a time commencement condition or time period for submission of reserved matters condition is not permissible and should be returned by the planning authority.

Can a planning authority issue a planning permission with conditions different to those proposed in a section 54 application?

3.13 Under section 54(3)(a) a planning authority has the power to grant planning permission subject to different conditions. The different (fresh) conditions are not limited to those proposed in a section 54 application (case law: R v Leicester City Council Ex p. Powergen UK plc (2000) 80 P. & C.R. 176).

Are there limitations to the scope of a section 54 application?

3.14 ‘It is established law that a condition on a planning permission will not be valid if it alters the extent or indeed the nature of the development permitted’ (case law: Cadigan v Secretary of State for the Environment (1993) 65 P. & C.R. 410 – Lord Justice Glidewell). When considering an application under section 54, the planning authority must avoid any variation to conditions or new conditions which would fundamentally alter the nature of a planning permission (case law: R v Coventry City Council ex parte Arrowcroft Group plc 2000 WL 1151469).
In the Arrowcroft case Justice Sullivan stated:

“the Council is able to impose different conditions upon a new planning permission, but only if they are conditions which the Council could lawfully have imposed upon the original planning permission in the sense that they do not amount to a fundamental alteration of the proposal put forward in the original application.”

3.15 On the basis of this principle established in the Arrowcroft case different conditions may be imposed on a section 54 permission so long as they could lawfully have been imposed upon the previous (original) permission and do not amount to a fundamental alteration of the proposal (description of development) set out in the previous (original) planning application. In the Arrowcroft case the application was considered to have gone beyond the scope of section 73 of the TCPA 1990. Furthermore, in the case R (Vue Entertainment Limited) v City of York Council [2017] EWHC 588 (Admin), Justice Collins, in referring to the Arrowcroft case, said in paragraph 13 “it was not permissible for a condition to seek to vary the permission which had been granted and therefore it was a misuse of section 73 to seek to achieve that.” Furthermore, Justice Collins, in referring to the Arrowcroft case, said that, “in my judgement does no more than make the clear point that it is not open to the council to vary conditions if the variation means that the grant (and one has to look at the precise terms of grant) are themselves varied.”

3.16 The Vue case also highlighted that an application to vary conditions is affected by the precise details set out in the description of development of the existing (original) planning application – see case outline below. In the Vue case the application was considered not to have gone beyond the scope of section 73 of the TCPA 1990. Care needs to be exercised by a planning authority when accepting a planning application in terms of the precise details set out in a description of development and the degree to which such

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details are fixed / defined, and which is granted planning permission with conditions, because it affects the scope of a potential section 54 application.

**R (Vue Entertainment Limited) v City of York Council [2017] EWHC 588 (Admin)**

Planning permission was granted in May 2015 for a sports, leisure, entertainment and retail redevelopment scheme near York that included a ‘multi-screen cinema’. The permission included a condition stating that the development was to be built in accordance with the approved drawings and with respect to the cinema this comprised 12 screens and 2,000 seats. A section 73 application that sought to vary the condition in order to amend the drawings to show a 13 screen cinema and 2,400 seats was approved by the council in June 2016 and this decision was challenged in the High Court in that it was considered to be a fundamental change to the effect of the planning permission. The court held that “the amendments sought do not vary the permission....and there is nothing in the permission itself which limits the size of either the amount of floor space or the number of screens and thus the capacity of the multi-screen cinema”. The proposed development also included ‘an 8,000 seat community stadium’ and Justice Collins stated that “It seems obvious to me that if the application had been to amend the condition to increase the capacity of the stadium that would not have been likely to fallen foul of the Arrowcroft principle because it would have been a variation to the grant of permission itself but as I say, that is not the case here”. Justice Collins also stated “When one is concerned with fundamental variations, one must look, as it seems to me, to the permission as a whole in order to see whether there is in reality a fundamental change, or whether any specific part of the permission as granted is sought to be varied by the change of condition”.

3.17 A proposed fundamental or substantial material amendment to a development having planning permission can be addressed by the submission of a fresh application for planning permission to the relevant
planning authority. A judgement on ‘materiality’\(^\text{23}\) in any particular case is a matter of fact and degree for the planning decision maker.

**Can a planning authority issue a planning permission with more onerous conditions than those imposed on a previous planning permission?**

3.18 Under section 54(3) a planning authority can grant planning permission with conditions differing from those subject to which a previous permission was granted. However, it must be borne in mind that conditions should only be imposed on a planning permission where they meet the six legal tests for conditions:- necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects. These tests must be applied to the consideration and imposition of conditions, including those that would be considered to be more onerous than those imposed on a previous planning permission. Furthermore, as established in the Arrowcroft case, a planning authority is able to impose different conditions upon a new planning permission, but only if they are conditions which the planning authority could lawfully have imposed upon the previous (original) planning permission. Therefore, it should be noted that even if a planning authority considers imposing more onerous conditions on a section 54 permission, the conditions of the previous (original) planning permission can be implemented if it is still extant (fallback position), thus making such an imposition of no real effect.

**What is the effect of a successful section 54 application?**

3.19 A successful application under section 54 is a new or fresh grant of planning permission (case law: *Powergen UK plc v Leicester City Council (2001)* 81 P. & C.R. 5). To assist with clarity, when issuing a fresh planning permission granted under section 54, it is advisable that all the conditions of the previous (original) planning permission to which the new planning

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\(^{23}\) Refer to Development Management Practice Note 25 Non-Material Change and in particular the non-exhaustive list of assessment criteria to guide the decision on whether or not proposed changes to an existing planning permission are material or not.
Development Management Practice Note 24

permission is to be subject should be restated in the new permission, unless they have already been discharged, and not be left to a process of cross referencing with the previous (original) planning permission (case law: *R (Reid) v Secretary of State for Transport, Local Government and the Regions* [2002] EWHC 2174).

Does the previous (original) planning permission remain intact and unamended?

3.20 Subsequent to a section 54 planning permission the previous (original) planning permission remains intact and unamended (case law: *Powergen UK plc v Leicester City Council* (2001) 81 P. & C.R. 5). An applicant may choose whether to implement the previous (original) planning permission or the new planning permission granted under section 54 so long as they are not time-expired.

Can an application be made for planning permission for development carried out without complying with some conditions subject to which planning permission was granted i.e. a retrospective application?

3.21 **Section 55 of the 2011 Act** is a power that allows for the grant of planning permission for development already carried out (i.e. retrospective planning permission) and under section 55(1)(c) this includes development carried out without complying with some condition subject to which planning permission was granted. Therefore, a breach of planning control, including a breach of condition, in relation to a planning permission where development has been carried out may be remedied by a planning application seeking retrospective planning permission made under section 55 or planning enforcement action may be taken within the time limits set by section 132 of the 2011 Act.

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24 Case law: Lawson Builders Ltd & Others v Secretary of State for Communities & Local Government [2015] EWCA Civ 122, which relates to an appeal case involving a section 73 application (seeking to vary conditions) and the granting of retrospective planning permission under 73A of the TCPA 1990.
3.22 Whilst a section 54 application is subject to special provisions laid out in the GDPO, which differ from some of the provisions for a standard planning application, a section 55 application is subject to the provisions for a standard planning application.

3.23 Issues surrounding a potential section 54 or 55 application should be discussed with the relevant planning authority, e.g. through a PAD, prior to submission in order to establish what should be the appropriate application and planning fee to submit to a planning authority.

Can a section 54 application be made in relation to an existing approval of reserved matters?

3.24 A section 54 application can only be made in relation to an extant planning permission with conditions, whether an outline or full planning permission. An application for the approval of reserved matters is not an application for planning permission. A fresh approval of reserved matters application may be made for alternative details in relation to the same reserved matter(s) so long as the time period under an outline planning permission for the submission of such an application(s) has not expired. An application for the approval of reserved matters is subject to the payment of a planning fee in accordance with the Fees Regulations.

Can a section 54 application made to a council be called in by the Department?

3.25 Section 29(1) states that the Department may give directions requiring applications for planning permission made to a council to be referred to it instead. Under section 29(4) any application in respect of which a direction under section 29 has effect shall be referred to the Department accordingly. Therefore, a section 54 application made to a council may be called in by the Department if a direction is given to a council.

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25 Refer to Development Management Note 13 Notification and Call In of Applications.
Are other types of applications required where a section 54 application is made to a planning authority?

3.26 Depending upon the circumstances of each individual situation, where a section 54 application is made to a planning authority in relation to approved development, there may also be a requirement for one or more applications for the following consent regimes:

- a section 95 application in relation to an extant listed building consent

- a section 95 as applied by section 105(6) application in relation to an extant conservation area consent

- a section 111 application in relation to an extant hazardous substances consent.

4.0 Procedures (including special provisions) for a section 54 application

4.1 The main procedures and special provisions for a section 54 application are referred to in the following paragraphs.

How may an applicant seek planning permission under section 54?

4.2 Article 3(5)(b) of the GDPO states that an application for planning permission under section 54 shall be made in writing and give sufficient information to identify the previous grant of planning permission and any condition in question. This provides a more streamlined approach to submitting a planning application. Such an application is made to the relevant planning...

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26 Refer to section 8.0 (of this document).
27 Refer to section 9.0 (of this document).
28 Refer to section 10.0 (of this document).
29 Refer to paragraph 2.3 (of this document).
Applicants should clearly state that it is an application made under section 54 of the Planning Act (Northern Ireland) 2011. Applicants must also submit a completed Form P2 Planning Application Certificate under Section 42 of the Planning Act (Northern Ireland) 2011, which is a statement of ownership. If Certificate C or D is completed on Form P2, then an applicant has to give requisite notice to certain persons about a forthcoming planning application and can use Form P2A Notice of Application for Planning Permission for this purpose.

Alternatively, the ‘Application for permission to develop land without compliance with conditions previously attached / Planning Act (Northern Ireland) 2011 - Section 54’ model application form (Form RVC1), which is not a statutory requirement, may be used as a means of providing the information required by Article 3(5)(b) of the GDPO and other legislative requirements e.g. section 42 Certificate. The application form states as a sub-heading that it is an application made under the ‘Planning Act (Northern Ireland) 2011 – Section 54.’ Form RVC1 includes a Certificate of Ownership section which is equivalent to Form P2, therefore, if this section is used a separate completed Form P2 is not required. If Certificate C or D in the Certificate of Ownership section on Form RVC1 is completed, then an applicant has to give requisite notice to certain persons about a forthcoming planning application and can use Form P2A Notice of Application for Planning Permission for this purpose.

With respect to a section 54 application, as with any planning application, it is important to ensure the proposal description and the site address are sufficient to give proper notice of the application by way of newspaper advertisement and through neighbour notification and the other

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30 Refer to paragraphs 4.6 and 4.7 (of this document).
31 This form, which was revised in December 2017, is available on the Planning Portal at www.planningni.gov.uk as well as guidance on applying for planning permission which can be obtained from the document entitled ‘Explanatory Notes on Applying for Planning Permission, Approval of Reserved Matters and Other Types of Planning Consent’.
32 Refer to Development Management Practice Note 14 Publicity Arrangements and Neighbour Notification.
requirements of Article 8(1) and (2) of the GDPO are fully met. The proposal description should make reference to the application reference number and the nature of the development of the previous (original) planning permission and provide the condition numbers and summary details of the conditions that are the subject of the application. This also ensures that the information required for a section 54 application under Article 3(5)(b) is provided by an applicant.

4.5 The planning authority may, in writing addressed to the applicant, require such further information as may be specified to enable it to determine the application (Article 3(6) of the GDPO).

Who processes an application for planning permission made under section 54?

4.6 Section 54(3) indicates that the planning authority which granted the previous (original) planning permission subject to conditions deals with the section 54 application. Therefore, a section 54 application related to an existing local or major development which has planning permission granted by the appropriate council is dealt with by that council, whereas a section 54 application in relation to a major development of regional significance (and a called-in application under section 29 of the 2011 Act) having planning permission granted by the Department is dealt with by the Department.

4.7 Under the Transitional Provisions Order, a section 54 application in relation to development having planning permission with conditions granted under the

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33 Failure to follow these legislative requirements could leave the council or the Department susceptible to Ombudsman cases (NIPSO) and judicial reviews that ultimately could result in invalid decisions. Furthermore, appeals in relation to section 54 applications refused by a council could be rendered invalid by the Planning Appeals Commission (PAC) and could lead to costs awards.

34 Refer to paragraph 3.5 (of this document).

35 Under section 25 of the 2011 Act and regulation 2 and the Schedule to the Development Management Regulations a development is categorised in accordance with a hierarchy of development i.e. local or major development. Major development is classified in accordance with the Schedule.

36 Under the GDPO and Development Management Regulations, ‘appropriate council’ means the council for the district in which the land to which the application relates is situated.

37 Under section 26 of the 2011 Act and regulation 3 and the Schedule to the Development Management Regulations certain major development can be major development of regional significance. Major development of regional significance is classified in accordance with the Schedule.
Planning (Northern Ireland) Order 1991, hereafter referred to as the 1991 Order, (i.e. granted permission prior to 1st April 2015), is also dealt with by the appropriate council. Furthermore, under the transitional provisions, a section 54 application in relation to planning permission granted under Article 31 of the 1991 Order is dealt with by the Department.

Is a Design and Access Statement required for a section 54 application?

4.8 Under Article 6(4)(a), the requirement for a design and access statement does not apply to a section 54 application for planning permission to develop land without compliance with conditions previously attached to a grant of planning permission for major development and major development of regional significance, unless those conditions relate to design and access issues.

Is there a requirement for the planning authority to consult others in relation to a section 54 application?

4.9 Article 14 of the GDPO states that before determining a section 54 application for planning permission the planning authority must consult the statutory consultees in Schedule 3 as the planning authority considers appropriate.

4.10 The duty to respond to consultation prescribed by Article 15 of the GDPO applies to applications made pursuant to section 54.

Is Pre-application Community Consultation (PACC) required for a section 54 application?

4.11 Under section 25 of the 2011 Act, development is categorised in accordance with a hierarchy of development i.e. local or major development. In granting planning permission for a major development, which includes major development of regional significance, a planning application will have been subject to PACC undertaken by an applicant, including the preparation of a
pre-application community consultation report, in accordance with the requirements of sections 27 and 28 of the 2011 Act and regulations 5 and 6 of the Development Management Regulations.

4.12 In terms of the hierarchy of development, each section 54 application should be considered on a case by case basis and categorised and classified on its own merits by the relevant planning authority. If a section 54 application relates to an already approved major development or major development of regional significance where PACC has already been undertaken, then it is not the legislative intention that it would be subject to PACC.

4.13 The extant planning permission, whether for major development or major development of regional significance, has established the principle of development on a given application site, and a section 54 application is not a means to re-visit the principle since under section 54 a planning authority must consider only the question of the conditions attached to an extant planning permission for a development.

4.14 As mentioned previously a section 54 application will be subject to statutory publicity and neighbour notification through which the community may engage in the planning process and interested parties may submit representations. Furthermore, the council has the power to conduct a pre-determination hearing under section 30 of the 2011 Act and, under section 30(4) specifically, may elect to give an applicant and any other specified person an opportunity of appearing before and being heard by a committee of the council before determining an application for planning permission, and this would include a section 54 application.

4.15 As referred to earlier, early engagement between an applicant / agent and a planning authority may be of assistance in these matters.

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38 Refer to Development Management Practice Note 17 Pre-Determination Hearings.
What regard is to be had to when making a determination in relation to a section 54 application?

4.16 **Section 6(4)** of the 2011 Act states that ‘where, in making any determination under this Act, regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.’

4.17 **Section 45(1)** of the 2011 Act states that ‘where an application is made for planning permission, the council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations, and–

(a) subject to sections 61 and 62, may grant planning permission, either unconditionally or subject to such conditions as it thinks fit; or
(b) may refuse planning permission.’

4.18 Furthermore, in relation to a section 54 application the planning authority must comply with section 54(3). The previous planning permission for development which is the subject of a section 54 application will be a material consideration in its determination.

Is there a time period for decision for a section 54 application?

4.19 A section 54 application made to the council shall be determined within a period specified in accordance with **Article 20** of the GDPO, that is, 16 weeks (Article 20(2)(a)) or 8 weeks (Article 20(2)(b)) depending upon the category / type of the application, beginning on the date when the application was received; or, such extended period agreed in writing between the applicant and the council (if the applicant has not given notice of appeal to the Planning Appeals Commission (PAC) under sections 58 and 60 of the 2011 Act).
4.20 A section 54 application that is EIA development is subject to regulation 17 of the EIA Regulations, which extends the time period for the council’s decision on an application under Article 20(2)(b) of the GDPO from 8 to 16 weeks and the date when the application is received is subject to the events of regulation 17(c) having occurred as well as those under Article 20(3) of the GDPO.

4.21 A section 54 application made to the council is also subject to Article 2 and Schedule 3 (Planning Indicators) and Schedule 4 (Planning Standards) of the Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015, which sets indicators and standards for the processing of major and local applications for planning permission as well as for enforcement cases as defined in the Schedules.

What is the different decision making process for a section 54 application processed by the Department?

4.22 Where a section 54 application must be made to the Department it is subject to a different decision making process by way of Article 21 of the GDPO.

4.23 Under Article 21 of the GDPO, where an application under section 54 is submitted to the Department, then for the purpose of considering representations made in respect of the application, the Department may cause a public local inquiry to be held by the PAC or a person appointed by the Department for that purpose.

4.24 Where a local public inquiry is not held, the Department must, before determining the application, serve a notice in writing (i.e. Notice of Opinion) on the applicant and the appropriate council indicating the decision which it proposes to make and if within such period as may be specified in the notice (not being less than 28 days from the date of service of the notice), the applicant or the council request in writing to appear before and being heard by the PAC or person appointed, the Department must afford each of them an opportunity to do so.
4.25 Where an inquiry or hearing is held, the Department must take into account any report of the PAC or person appointed as the case may be. The decision of the Department on an application made under section 54 of the 2011 Act shall be final.

What should a decision notice to grant a section 54 permission include?

4.26 A decision notice relating to a planning application shall be in accordance with Article 22 of the GDPO and this includes a section 54 permission. A decision notice to grant a section 54 permission shall comply with this Article and needs to include a reference making it clear that it relates to an application made under section 54 of the Planning Act (Northern Ireland) 2011, as well as the proposal description and site address. This includes the information required for a section 54 application made under Article 3(5)(b) of the GDPO. Furthermore, the decision notice of a section 54 permission must be in accordance with sections 54(3)(a) and 54(5). (Note: Regulation 26 of the EIA Regulations lists the information to accompany a decision when an EIA application is determined). Subject to the complexity of some section 54 permissions, it would be good practice for a planning authority to attach an informative to the decision notice in order to clarify which conditions have been, in effect, varied / removed; added; restated and discharged.

4.27 A successful section 54 application in relation to either a previous full planning permission or outline planning permission is a new or fresh grant of planning permission, i.e. a section 54 planning permission, which is for the same description of development but with different conditions attached. In particular, careful attention would need to be applied when imposing conditions on a section 54 planning permission where there is a previous outline planning permission.

39 Refer to paragraph 3.17 (of this document) with respect to conditions to be applied to a decision notice.
Will a section 54 application appear on the Public Register (Register of Applications)?

4.28 Under Article 24 of the GDPO, a Register of Applications, which forms part of the Public Register as per section 242 of the 2011 Act, is to be kept by the council and shall contain certain specified information as listed under the Article in relation to planning applications and this includes section 54 applications.

4.29 Regulation 44(1) of the EIA Regulations requires the Register of Applications kept by the council to contain copies of certain specified documents as listed under the regulation.

4.30 In relation to applications processed and determined by the Department, there is no statutory requirement for the Department to hold registers. However, section 242(2) of the 2011 Act requires the Department to supply a council with such information as may be so specified in the GDPO and the onus will be on the Department to highlight to the council when it needs to update the registers within its council district area. This includes the certain specified documents as listed under regulation 44(1) of the EIA Regulations.

5.0 Planning fees

5.1 Under regulation 3 of the Fees Regulations, a section 54 application is subject to a planning fee in accordance with Schedule 1, Part 2 Scales of Fees, category of development 11(b).
6.0 **Section 54 application and the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 and the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995**

6.1 A section 54 application does not fall within the meaning of subsequent application laid out in the EIA Regulations. Therefore, it is considered to be a new application for planning permission under the EIA Regulations.

6.2 Where a council or, as the case may be, the Department considers that a section 54 application is EIA development, then an Environmental Statement (ES) must be submitted in accordance with the EIA Regulations. Where an Environmental Impact Assessment was carried out on the previous (original) permission, which is the subject of a section 54 application, the council or, as the case may be, the Department will need to consider if further information needs to be added to the previous (original) Environmental Statement to satisfy the requirements of the EIA Regulations. Whether further information is required or not to the (previous) original ES, an ES must be submitted with a section 54 application when it is considered to be EIA development.

6.3 Under Article 13 of the GDPO, before determining a section 54 application that is EIA development the council or, as the case may be, the Department shall consult in accordance with the Article and Schedule 3 (statutory consultees).

6.4 Where a section 54 application is EIA development, then under regulation 4 of the EIA Regulations, planning permission shall not be granted by a council, the Department or the PAC unless an environmental impact assessment has been carried out in respect of that development.

6.5 If a section 54 application is EIA development, then it will be subject to regulation 11 of the Fees Regulations.
6.6 Regulation 43 of the Habitats Regulations prohibits a competent authority\textsuperscript{42} from giving any consent, permission or other authorisation for a project which is likely to have a significant effect on a European site\textsuperscript{43} without first making an appropriate assessment of the implications for the site in view of the site’s conservation objectives. This includes a planning permission to be granted under section 54, therefore, the provisions of the Habitats Regulations must be considered in relation to a section 54 application. Under regulation 23 of the EIA Regulations, where, in relation to EIA development, there is, in addition to the requirement for an EIA to be carried out in accordance with these Regulations, also a requirement to carry out a Habitats Regulations Assessment, the council or, as the case may be, the Department shall, where appropriate, ensure that the Habitats Regulations Assessment and the EIA are coordinated.

7.0 Section 54 application and right to a planning appeal

7.1 Under section 58 of the 2011 Act, an applicant may appeal in writing to the PAC when a section 54 application has been refused planning permission by a council. Furthermore, when a section 54 application is granted planning permission subject to conditions, an applicant may appeal in writing to the PAC with respect to one or more of those conditions. The time limit for an appeal served on the PAC is within 4 months from the date of the decision notice.

7.2 An appeal against failure to take a planning decision (non-determination) may be made to the PAC if a council does not issue a decision notice within the statutory time period for decision in relation to a section 54 application.

7.3 Under section 58(4), where an appeal is brought under section 58 from a decision of the council, which includes appeals in relation to a section 54 application, the provisions of the Habitats Regulations must be considered in relation to a section 54 application.

\textsuperscript{42} Under regulation 5 of the Habitats Regulations a competent authority includes government departments and district councils.

\textsuperscript{43} Regulation 9 of the Habitats Regulations lays out the meaning of a European site.
decision (section 58(7)), the PAC may allow or dismiss the appeal or may reverse or vary any part of the decision whether the appeal relates to that part thereof or not and may deal with the application as if it had been made to it in the first instance. This means that any planning conditions can be considered by the PAC in an appeal in relation to a section 54 decision and not just those that are the subject of refusal.

7.4 A section 54 application determined by the Department is not subject to appeal under section 58. However, under Article 21 of the GDPO, there is provision for a public local inquiry or a hearing to be held prior to the Department making a decision on a section 54 application after taking into account any report by the PAC or person appointed and that decision is final.

8.0 Application made under section 95 of the 2011 Act for consent to execute works without compliance with conditions previously attached to a listed building consent

8.1 Similar to a section 54 application, there is provision under section 95 of the 2011 Act for an application for listed building consent for the execution of works to a building without complying with conditions subject to which a previous listed building consent was granted.

8.2 A section 95 application\textsuperscript{44} is made to the authority which granted the previous listed building consent, who must consider only the question of the conditions subject to which listed building consent should be granted.

8.3 An application to the council made under section 95 must be made in accordance with regulation 10 of the Planning (Listed Buildings) Regulations (Northern Ireland) 2015, hereafter referred to as the “Listed Buildings Regulations”\textsuperscript{45}.

\textsuperscript{44} The form and content of an application and procedure to be followed in connection with such an application is laid out in the Listed Buildings Regulations.

\textsuperscript{45} Amended by the Planning (Listed Buildings) (Amendment) Regulations (Northern Ireland) 2016.
8.4 An application to the Department made under section 95 must be made in accordance with regulation 11 of the Listed Buildings Regulations.

8.5 Furthermore, under paragraph 7 of Schedule 2 of the Transitional Provisions Order, where listed building consent under the 1991 Order was granted subject to conditions, then any application under section 95 of the 2011 Act shall be made to the appropriate council in accordance with the Listed Buildings Regulations, provided that the consent has not become time expired.

8.6 An application made under section 95 of the 2011 Act is not subject to the payment of a fee under the Fees Regulations.

9.0 Application made under section 95 as applied by section 105(6) of the 2011 Act for consent to execute works without compliance with conditions previously attached to a conservation area consent

9.1 Similar to a section 54 application, there is provision under section 95 as applied by section 105(6) of the 2011 Act for an application for conservation area consent for the execution of works to a building without complying with conditions subject to which a previous conservation area consent was granted.

9.2 A section 95 application as applied by section 105(6)\(^{46}\) is made to the authority which granted the previous conservation area consent, who must consider only the question of the conditions subject to which conservation area consent should be granted.

9.3 An application to the council made under section 95 as applied by section 105(6) must be made in accordance with regulation 9 of the Planning

\(^{46}\) The form and content of an application and procedure to be followed in connection with such an application is laid out in the Conservation Area Demolition Regulations.
(Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015, hereafter referred to as the Conservation Area Demolition Regulations.

9.4 An application to the Department made under section 95 as applied by section 105(6) must be made in accordance with regulation 10 of the Conservation Area Demolition Regulations.

9.5 Furthermore, under paragraph 7 of Schedule 2 of the Transitional Provisions Order, where conservation area consent under the 1991 Order was granted subject to conditions, then any application under section 95 as applied by section 105(6) of the 2011 Act shall be made to the appropriate council in accordance with the Conservation Area Demolition Regulations, provided that the consent has not become time expired.

9.6 An application made under section 95 as applied by section 105(6) of the 2011 Act is not subject to the payment of a fee under the Fees Regulations.

10.0 Application made under section 111 of the 2011 Act for applications for hazardous substances consent without compliance with conditions previously attached to a hazardous substances consent

10.1 Similar to a section 54 application, there is provision under section 111 of the 2011 Act for an application for hazardous substances consent without complying with conditions subject to which a previous hazardous substances consent was granted.

10.2 A section 111 application\(^{47}\) is made to the authority which granted the previous hazardous substances consent, who must consider only the question of the conditions subject to which hazardous substances consent should be granted.

\(^{47}\) The form and content of an application and procedure to be followed in connection with such an application is laid out in the Hazardous Substances Regulations.
10.3 An application to the council made under section 111 must be made in accordance with the Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015, hereafter referred to as the Hazardous Substances Regulations, namely regulation 5(2).

10.4 An application to the Department made under section 111 must be made in accordance with regulation 5(2) of the Hazardous Substances Regulations.

10.5 Furthermore, under paragraph 7 of Schedule 2 of the Transitional Provisions Order, where hazardous substances consent under the 1991 Order was granted subject to conditions, then any application under section 111 of the 2011 Act shall be made to the appropriate council in accordance with the Hazardous Substances Regulations, provided that the consent has not become time expired.

10.6 An application made under section 111 of the 2011 Act is subject to a planning fee under regulation 10 of the Fees Regulations and in accordance with Schedule 2.

11.0 Conditions imposed in relation to a consent to display advertisements

11.1 No provision exists under The Planning (Control of Advertisements) Regulations (Northern Ireland) 2015 for an application for consent to display advertisements without complying with conditions subject to which a previous consent to display advertisements was granted.

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48 Amended by the Planning (Hazardous Substances) (No. 2) (Amendment) Regulations (Northern Ireland) 2016.
12.0 Summary of main points in relation to a section 54 application

12.1 A section 54 application is submitted to and determined by the planning authority which granted the previous planning permission (subject to the Transitional Provisions Order). (Paragraph 2.1)

12.2 Unless there has been a pre-application discussion, a planning authority should fundamentally establish that the application proposal falls within the scope of section 54 as soon as possible after receiving an application i.e. it should satisfy itself that it is a ‘true’ section 54 application. (Paragraphs 3.2 and 3.4)

12.3 In considering an application made under section 54, the planning authority which granted the previous planning permission must consider only the “question of the conditions” subject to which planning permission should be granted (section 54(3)). In essence, section 54 allows for different conditions to be attached to a new planning permission but does not allow for the amendment of the description of development of the previous (original) permission. A successful section 54 application results in a new planning permission for the same description of development previously approved but with different conditions attached. (Paragraph 3.5)

12.4 A section 54 permission has the same time period for commencement of development as conditioned in a previous planning permission. Also, a section 54 permission has the same time period for submission of an application for the approval of reserved matters as conditioned in a previous outline planning permission. (Paragraph 3.10)

12.5 A planning authority is able to impose different conditions upon a new planning permission, but only if they are conditions which the planning authority could lawfully have imposed upon the original planning permission in the sense that they do not amount to a fundamental alteration of the proposal put forward in the original application. (Paragraph 3.14)
12.6  Care needs to be exercised by a planning authority when accepting a planning application in terms of the precise details set out in a description of development and the degree to which such details are fixed / defined, and which is granted planning permission with conditions, because it affects the scope of a potential section 54 application. (Paragraph 3.16)

12.7  A successful application under section 54 is a new or fresh grant of planning permission. To assist with clarity, when issuing a fresh planning permission granted under section 54, it is advisable that all the conditions to which the new planning permission is to be subject should be restated in the new permission, unless they have already been discharged, and not be left to a process of cross referencing with the previous (original) planning permission. (Paragraph 3.19)

12.8  Subsequent to a section 54 planning permission the previous (original) planning permission remains intact and unamended. An applicant may choose whether to implement the previous (original) planning permission or the new planning permission granted under section 54, so long as they are not time-expired. (Paragraph 3.20)

12.9  If a section 54 application relates to an already approved major development or major development of regional significance where PACC has already been undertaken, then it is not the intention that it would be subject to PACC. (Paragraph 4.12)

12.10 A section 54 application does not fall within the meaning of subsequent application laid out in the EIA Regulations, therefore, it is considered to be a new application for planning permission under the EIA Regulations and an ES must be submitted with a section 54 application when it is considered to be EIA development. (Paragraphs 6.1 and 6.2)

12.11 The provisions of the Habitats Regulations must be considered in relation to a section 54 application. (Paragraph 6.6)
### Planning Services - April 2017 to March 2018

#### Month:- Nov-17

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| Total Income:     | (2,079,000)| (1,358,397)  | (1,309,702)  | 48,695  |

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<tr>
<td>Planning</td>
<td>(470,946)</td>
<td>(241,829)</td>
<td>(178,269)</td>
<td>63,560</td>
</tr>
</tbody>
</table>

| Total Net Overall Position | (470,946) | (241,829) | (178,269) | 63,560 |