



Isle of Man
Government

Reillys Ellan Vannin

DEPARTMENT OF ENVIRONMENT FOOD AND AGRICULTURE

TOWN AND COUNTRY PLANNING ACT 1999 TOWN AND COUNTRY (DEVELOPMENT PROCEDURE) ORDER 2019

Agenda for a meeting of the Planning Committee, 12th February 2024, 10.00am, in the Ground Floor Meeting Room of Murray House, Mount Havelock, Douglas

Please note that participants are able to attend in a public meeting in person or virtually via Microsoft Teams. For further information on how to view the meeting virtually or speak via Teams please refer to the Public Speaking Guide and 'Electronic Planning Committee – Supplementary Guidance' available at www.gov.im/planningcommittee. If you wish to register to speak please contact DEFA Planning & Building Control on 685950.

1. Introduction by the Chairman

2. Apologies for absence

3. Minutes

To give consideration to the minutes of a meeting of the Planning Committee held on the 29th January 2024.

4. Any matters arising

5. To consider and determine Planning Applications

Schedule attached as Appendix One.

Please be aware that the consideration order, as set down by this agenda, will be revisited on the morning of the meeting in order to give precedent to applications where parties have registered to speak.

6. Site Visits

To agree dates for site visits if necessary.

7. Section 13 Agreements

To note any applications where Section 13 Agreements have been concluded since the last sitting.

8. Any other business

9. Next meeting of the Planning Committee

Set for 26th February 2024.

PLANNING COMMITTEE Meeting, 12th February 2024
Schedule of planning applications

<p>Item 5.1 East Of 15 Terence Avenue Douglas Isle Of Man IM2 5BN</p> <p>PA23/01097/B Recommendation : Permitted</p>	<p>Erection of a two bedroom bungalow with associated landscaping and car parking facilities</p>
<p>Item 5.2 Land At Poyldooey Fields And Part Fields 134271, 134253, 134270, 134272, 131273, 131276, 132274 & 134274 Ramsey Isle Of Man</p> <p>PA22/00679/B Recommendation : Approve subject to Legal Agreement</p>	<p>Combined approval in principle and full approval for a residential development seeking planning permission for the erection of 66 dwellinghouses and 12 flats, site access, Spine Road through the site, drainage, car parking and associated landscaping (Phase 1). Outline Planning permission for development of up to 127 new residential units in the form of dwellinghouses and flats, flexible commercial space, a new public house and new retail space with all matters reserved save for access</p>
<p>Item 5.3 Land In Front Of Bay View Hotel Between Shore Road Underway And Bay View Road Port St. Mary Isle Of Man</p> <p>PA21/00547/B Recommendation : Permitted</p>	<p>Erection of a single detached residential dwelling with integral garage</p>
<p>Item 5.4 1-29 Ballamillagyh Estate Mount Rule Douglas IM4 4HU IM4 4HX</p> <p>PA23/01236/B Recommendation : Permitted</p>	<p>To install 6 x 9 metre wooden telegraph poles with associated overhead wires. All six poles have been included in this application as all poles will be required to provide an overhead fibre service to the properties</p>
<p>Item 5.5 The Stables Greenhill Jurby Road Andreas Isle Of Man IM7 2EJ</p> <p>PA23/00221/B Recommendation : Permitted</p>	<p>Change of use of land and buildings to animal sanctuary. Placement of container and hardstanding and installation of replacement drainage and septic tank (retrospective)</p>
<p>Item 5.6 School Hill/Westhill Estate Castletown Isle Of Man</p> <p>PA23/00823/B Recommendation : Approve subject to Legal Agreement</p>	<p>Erection of 133 dwellings with associated drainage and access (Amendments to 19/00961/B)</p>

<p>Item 5.7 15 Third Avenue Douglas Isle Of Man IM2 6AL</p> <p>PA23/00654/B Recommendation : Permitted</p>	<p>Erection of single storey side extension, Loft conversion, associated external remodelling and landscaping</p>
<p>Item 5.8 Balla Bluff Pinfold Hill Laxey Isle Of Man IM4 7HL</p> <p>PA23/00818/REM Recommendation : Permitted</p>	<p>Reserved Matters application to PA 22/00669/A for the erection of two residential dwellings addressing siting, landscaping, drainage, means of access, internal layout and external appearance</p>
<p>Item 5.9 Colby AFC Clubhouse Main Road Colby Isle Of Man IM9 4LR</p> <p>PA23/01118/B Recommendation : Permitted</p>	<p>To improve the existing Sure mobile site at the Colby Football Club, Colby, to move to a new area of the site and include a dedicated 15 m tower to support next generation Mobile phone network equipment</p>
<p>Item 5.10 BMS House Port Way Balthane Industrial Estate Ballasalla Isle Of Man IM9 2AJ</p> <p>PA23/01468/C Recommendation : Permitted</p>	<p>Additional use of the premises for pharmaceutical retail (Class 1.1) and associated health services (Class 4.1)</p>
<p>Item 5.11 32 Summerhill Road Onchan Isle Of Man IM3 1NB</p> <p>PA23/01437/C Recommendation : Permitted</p>	<p>Additional use for tourism</p>

PLANNING AUTHORITY AGENDA FOR 12th February 2024

Item 5.1

Proposal : **Erection of a two bedroom bungalow with associated landscaping and car parking facilities**

Site Address : **East Of 15
Terence Avenue
Douglas
Isle Of Man
IM2 5BN**

Applicant : **Mr Scott Wilson**

Application No. : **23/01097/B- [click to view](#)**

Planning Officer : **Mr Toby Cowell**

RECOMMENDATION: To APPROVE the application

Recommended Conditions and Notes for Approval

C : Conditions for approval

N : Notes (if any) attached to the conditions

C 1. The development hereby approved shall be begun before the expiration of four years from the date of this decision notice.

Reason: To comply with Article 26 of the Town and Country Planning (Development Procedure) Order 2019 and to avoid the accumulation of unimplemented planning approvals.

C 2. The development shall be undertaken in full accordance with the materials specified on the covering letter received and dated 18th January 2024.

Reason: To ensure a high quality development and in the interests of the visual amenities of the locality.

C 3. All hard and soft landscaping works within the site shall be undertaken in full accordance with the approved landscaping plan (drwg. No. 111) within the next available planting season following construction of the property. This shall include the installation of the bee box and Hedgehog 'thoroughfares' which must be retained in perpetuity. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Department.

Reason: To ensure the provision of an appropriate landscape setting to the development and sufficient ecological enhancement and mitigation.

C 4. Prior to the occupation of the dwelling, the swift and bat boxes down on drwg. No. 108 Rev A shall be installed in accordance with the approved details and thereafter retained as such in perpetuity.

Reason: To secure sufficient ecological enhancement within the site.

C 5. No works to the roof shall take place unless a specification for the UK Native Perennially Meadow Seed Mix to be used on the green roof, has been submitted to the

Department and approved in writing. The works must then be undertaken in accordance with the agreed seed mix specification.

Reason: To secure sufficient ecological enhancement within the site.

C 6. Notwithstanding the provisions of the Town and Country Planning (Permitted Development) Order 2012 (or any Order revoking and/or re-enacting that Order with or without modification) no extension, enlargement or other alteration of the dwelling(s) hereby approved, other than that expressly authorised by this approval, shall be carried out, without the prior written approval of the Department.

Reason: To control development in the interests of the amenities of the surrounding area.

C 7. The development hereby approved shall not be occupied or operated until the means of vehicular access has been constructed in accordance with the approved plans, and shall thereafter be retained for access purposes only.

Reason: In the interests of highway safety.

C 8. The development hereby approved shall not be occupied or operated until the parking and turning areas have been provided in accordance with the approved plans. Such areas shall not be used for any purpose other than the parking and turning of vehicles associated with the development and shall remain free of obstruction for such use at all times.

Reason: To ensure that sufficient provision is made for off-street parking and turning of vehicles in the interests of highway safety.

C 9. Prior to the commencement of the development hereby approved, the protection measures detailed in the Proposed site planting (Drawing No. 111) produced on the 21/02/23 submitted in support of the application shall be fully installed and implemented and retained for the duration of the construction process, unless stated otherwise.

Reason: to ensure that all trees to be retained are adequately protected from damage to health and stability throughout the construction period to protect and enhance the appearance and character of the site and locality.

Reason for approval:

The proposed development is acceptable in terms of its form, mass and design by providing a well-designed new dwelling that is appropriate in terms of scale and footprint. The proposals would not result in a detrimental impact upon the character and visual amenity of the immediate locality, whilst ensuring that the amenities of surrounding residential properties would be suitably safeguarded. The proposals would further ensure that future occupants of the dwelling would benefit from a good standard of amenity.

The proposals are further deemed to be acceptable from a biodiversity and arboricultural standpoint, with no material concerns raised with respect to parking and highway safety. On this basis, the proposals are considered to be in compliance with Strategic Policy 5, Spatial Policy 1, General Policy 2 and Environment Policies 3, 4, 5 and 42, and Transport Policies 4 and 7 of the Isle of Man Strategic Plan (2016).

Interested Person Status – Additional Persons

It is recommended that the following Government Departments should be given Interested Person Status on the basis that they have made written submissions relating to planning considerations:

Department of Infrastructure Highway Services

It is recommended that the following should be given Interested Person Status as they are considered to have sufficient interest in the subject matter of the application to take part in any subsequent proceedings:

9 Ballanard Road

as they have explained how the development would impact the lawful use of land owned or occupied by them and in relation to the relevant issues identified in paragraph 2C of the Policy, as is required by paragraph 2D of the Policy.

It is further recommended that the following should not be given Interested Person Status as they are not considered to have sufficient interest in the subject matter of the application to take part in any subsequent proceedings and are not mentioned in Article 6(4):

7 Ballanard Road

13 Terence Avenue

4 Terence Avenue

20 Terence Avenue

21 Terence Avenue

110 Port-E-Chee Avenue

as they have not explained how the development would impact the lawful use of land owned or occupied by them and in relation to the relevant issues identified in paragraph 2C of the Policy, as is required by paragraph 2D of the Policy.

Planning Officer's Report

THIS APPLICATION IS REFERRED TO THE PLANNING COMMITTEE DUE TO THE NUMBER OF OBJECTIONS RECEIVED FROM LOCAL RESIDENTS

PREAMBLE

0.0 The application was deferred at the previous Committee Meeting of the 29th January 2024 for a site visit, which was subsequently undertaken on Monday 5th February 2024 at 1.30pm. Members inspected the site in the context of the proposed development, accompanied by the planning officer and senior arboricultural officer.

0.1 A verbal update was provided to members at the previous Committee Meeting of 2 late representations having been received which raised repeated and additional arboricultural concerns.

0.2 Subsequent to the previous Committee Meeting, a further representation was received noting the alleged inaccuracies of the planning officer's verbal comments in the meeting as to the location of the Elm tree and the proposed development's subsequent impact on its root protection area, which was further accompanied by a plan highlighting the tree and suggested root protection area. Likewise, a petition has been received objecting to the proposed development which has been signed by a total of 18 signatories from properties within Terence Avenue. The petition was submitted on behalf of the signatories by No. 21 Terence Avenue, who has previously provided comments on the application and was assessed for Interested Party Status.

0.3 Formal comments have also now been received from the senior arboricultural officer, who does not object to the proposals and specifically comments as follows:

"There has been no formal classification of trees in accordance with BS5837, however a pre application site visit was made and no trees that could qualify as a Category A or B were observed that were proposed to be removed. The proposal involves the removal of 1 tree, this will not result in a 50% canopy loss. The applicant has proposed to plant 3 individual trees and a row of hedging, this would become a net canopy gain at maturity.

The applicant has shown adequate protection measures for the trees within the curtilage, however concerns have been raised regarding 1 elm tree on a neighbouring property. There will be some impact to the trees roots system, but in my professional opinion, this will be less than anticipated due to the beech tree between the elm and the proposed foot print of the development. The rooting area of the beech tree will make it less favourable for the elm roots to extend in that direction."

0.4 The arboricultural officer has also recommended the attachment of a further condition to the decision notes should planning permission be forthcoming, which reads as follows:

"Prior to the commencement of the development hereby approved, the protection measures detailed in the Proposed site planting (Drawing No. 111) produced on the 21/02/23 submitted in support of the application shall be fully installed and implemented and retained for the duration of the construction process, unless stated otherwise.

Reason: to ensure that all trees to be retained are adequately protected from damage to health and stability throughout the construction period to protect and enhance the appearance and character of the site and locality."

1.0 THE SITE

1.1 The application site comprises the rear portion of the residential curtilage of 11 Ballanard Road (Creggen Ashen), Douglas, which is a two-storey four bedroom detached house with an integral garage located on the western side of Ballanard Road.

1.2 To the southwest end of the garden is a flat roofed detached garage which is accessed via Terence Avenue located to the south of the rear garden. A public footpath which connects Terence Avenue to Highcroft Avenue and Bray Hill is situated to the south of the application site which runs along rear boundary site and the dwellings situated to the south-east.

1.3 The site benefits from mature landscaping comprising trees and high hedges running along the large sections of the boundaries of the rear garden.

1.4 The wider streetscene within Ballanard Road and Terence Avenue is characterised by two storey detached and semi-detached dwellings situated within medium to large sized curtilages. The architectural styles on both street scenes is predominantly typical of the 1920s. The large rear gardens of the properties situated west of Ballanard Road (which includes the application site) have significant mature landscaping which forms a green corridor stretching from the boundary with Port E Chee Road to the rear of the properties along Bray Hill.

2.0 THE PROPOSAL

2.1 Planning permission is sought for the demolition of the existing garage structure in the western portion of the site and erection of a single detached bungalow with associated parking, hardstanding and landscaping. The proposed bungalow is of a modern and innovative design which would be asymmetrical in appearance, with an elongated principal

mono-pitched roof and small mono-pitched addition angled in the opposite direction at a reduced scale. The proposals would include a combination of fenestration types, including angled windows to complement the roofslopes and high levels windows above the ridge of the 'reduced' element of the dwelling. The dwelling would display a combination of material finishes, including painted render, timber cladding and Manx stonework, complete with a green sedum roof. The details specification of materials and finishes has been listed in an accompanying cover letter by the agent as follows:

- Render - White self coloured render, manufacturer TBC (Likely Permarock K Rend)
- Stone Cladding - 225mm Manx Stone walling tied into the masonry blockwork.
- Timber Panel - Natural Western Red Cedar Cladding
- Doors & Windows - Anthracite Grey or Black Aluminium Doors and windows
- Fascia & Soffits - Black Aluminium Fascia, with Natural Western Red Cedar Soffits
- Roof - Green Sedum Roof to be installed and seeded with a UK native Perennial meadow seed mix

2.2 The proposals include the planting of new hedgerows and additional trees to compensate for the loss of existing vegetation, with the additional of bird and bat boxes to be included within the site together with a 'bee hotel' along the new fence line.

2.3 The submitted planning statement notes that the dwelling would be fitted with underfloor heating throughout to be powered by an electric boiler system, with additional forms of heating to also include the use of a ground source heat pump.

2.4 Access to the site would be provided off the far end of Terence Avenue, with the proposed hardstanding within the site being described as sufficient to accommodate parking for 2 vehicles and also ensure access and egress of vehicles in forward gear.

3.0 PLANNING HISTORY

3.1 Planning permission was previously sought for an Approval in Principle for the erection of a detached bungalow on the site in 2023 (PA 22/01428/A). The Approval in Principle sought to address siting, landscaping, Design, Means of Access, Internal Layout, External Appearance and Design. The application was refused for the following reasons:

R 1. Due to the overall density of development, layout of the site, design and landscaping of the building and the spaces around them, coupled with the quantum of development on the broader site area, it is considered that the proposal would result in a visual overdevelopment of the site. The scheme would also result in significant loss of an established green corridor which has public amenity value and contributes to the character of the site and locality. It is, therefore, considered that the development would result in a particularly noticeable intrusive backland development within the site when viewed from the surrounding area, and would have a deleterious impact on the application site and the character and appearance of the area and the context of this part of Douglas, which is defined by detached buildings laid out within large curtilages with mature landscaping, thus failing to comply with Environment Policy 42, General Policy 2 (b, c, f & g), and Strategic Policy 3(b) of the Strategic Plan.

R 2. Due to the separating distance between the new dwelling and existing dwelling at Creggan Ashen, 11 Ballanard Road, the position of new fenestrations to habitable rooms on the proposed dwelling, and the nature of boundary treatment between both properties, it is considered that there would be unacceptable levels of overlooking from the first floor rear bedroom windows of the existing dwelling at Creggan Ashen, 11 Ballanard Road, resulting in significant adverse impacts upon the residential amenities of the occupants of the new dwelling, contrary to General Policy 2 (g) of the IOM Strategic Plan 2016 and the principles set out in the Residential Design Guide.

R 3. It has not been demonstrated that the development could be undertaken without creating significant adverse impacts on the ecology of the site or biodiversity as it has not been established that the recommended ecological mitigation could be secured as conditions of approval. The development would also result in the loss of a significant section of the existing green corridor on this part of the locality which has ecological and environmental benefits for the microclimate and biodiversity. It is therefore, considered that the intensity of the development coupled with the inability to implement all recommended mitigation measures for the development within the current scheme to address biodiversity concerns would be contrary to the requirements of General Policy 2 (d), Strategic Policy 4 (b) of the Strategic Plan, as well as Strategic Objective 3.3 Environment (b), and habitat loss action 21 of the IoM Government Biodiversity Strategy.

R 4. Whilst the site is within an area designated for Residential use on the Area Plan for the East, the development will result in the loss of a mature tree on site, with potential to impact on tree root areas for neighbouring trees, without adequate provision made for their protection and replacement planting within the site, whilst encouraging further removal of trees, resulting in significant adverse impacts on the character and appearance of the site and area. The proposal is, therefore, contrary to General Policy 2 (f) and Environment Policy 3.

4.0 PLANNING POLICY

4.1 The application site is identified in the Area Plan for the East as land zoned for 'predominantly residential' purposes within Douglas. The site is not located within a Conservation Area.

4.2 The following policies from the 2016 Strategic Plan are considered pertinent in the assessment of this application;

Strategic Policy

- 1 Efficient use of land and resources
- 2 Priority for new development to identified towns and villages
- 3 To respect the character of our towns and villages
- 5 Design and visual impact

Spatial Policy

- 1 Development in Douglas

General Policy

- 2 General Development Considerations

Environment Policy

- 3 Development to safeguard woodland of high amenity value
- 4 Protection of species and habitats
- 5 Mitigation against damage to or loss of habitats
- 42 Designed to respect the character and identity of the locality

Housing Policy

- 1 Housing needs
- 4 New Housing to defined existing towns

Transport Policy

- 4 Highway Safety
- 7 Parking Provisions

4.5 Residential Design Guide (2021)

This document provides advice on the design of new houses and extensions to existing property as well as how to assess the impact of such development on the living conditions of those in adjacent residential properties and sustainable methods of construction.

5.0 REPRESENTATIONS

5.1 Douglas Borough Council - No objections (22.09.23)

5.2 Highways Services - Development would have no significant negative impact upon highway safety, network functionality and /or parking, subject to parking and vehicle turning, and access works as per approved plans to be implemented before occupation of the site. A Section 109(a) highway agreement will be needed for the alterations to the public highway to facilitate the access. (22.09.23)

5.3 DEFA Biodiversity - The Ecosystem Policy Team would not object to this application, provided that a number of conditions are secured on approval which ensure that all that of the proposed ecological mitigation measures are implemented on site:

- All landscaping to be undertaken in accordance with the Proposed Site Planting Plan (Drawing No. 111), in the next available planting season following construction of the property. The standard condition for the replacement of any damaged, diseased or removed tree or shrub within 5 years of planting should also be applied.
- All trees shown on the site as being retained must be protected from damage during construction by the erection of protective fencing, with no building, storage, or excavation to be undertaken within this protected area.
- No works to take place unless a specification for the UK Native Perennially Meadow Seed Mix to be used on the green roof, has been submitted to Planning and approved in writing. The works must then be undertaken in accordance with the agreed seed mix specification.
- The bee box and Hedgehog 'thoroughfares' to be installed in accordance with the details on the Proposed Site Planting Plan (Drawing No. 111).
- The swift and bat boxes to be installed in accordance with the drawing titled 'Planning for the erection of a detached dwelling (Drawing No. 108 Rev. A) in the first year following construction of the dwelling.

We would object to this application should any of these measures not be secured, because all of the combined measures are required to ensure that the application does not result in a net loss for biodiversity, which would be contrary to Planning Policy. (12.10.23)

5.4 Forestry Officer - No response received at the time of writing.

5.5 8 letters of representation have been received providing comments on the application. The following provides a summary of their content, whilst full details of each representation can be found on the online planning file.

- Development would be cramped within the plot and represent overdevelopment;
- Could set a precedent for future backland development;
- No fundamental changes compared to previously refused application;
- Biodiversity impact and no guarantee of mitigation measures to be implemented and retained;
- New dwelling even closer to No.11 Ballanard Road than previous scheme;
- Negative impact on green corridor and mature Elm tree in the adjacent garden;
- Development will cause local residents inconvenience with parking currently an issue;
- Potential highways impact, particularly during construction and impact of pollution on wildlife.

6.0 ASSESSMENT

6.1 The main issues to consider in the assessment of this planning application are as follows:

- Principle of development (SP1)
- Design and visual impact (SP5, GP2, EP42)
- Residential amenity (GP2)
- Biodiversity and arboriculture (EP3-5)
- Highways and parking (TP4,7)
- Other matters

6.2 PRINCIPLE

6.2.1 The site falls within the settlement boundary of Douglas and an area zoned for residential development, where there is a general presumption in favour of the creation of new dwellings. This however is subject to the assessment of additional material planning considerations which, in the context of this application, relate to design, visual impact, impact on residential amenity, the quality of amenity for future occupants, highways and parking considerations, together with potential impacts upon biodiversity and arboriculture. All such matters are considered in the latter sections of this report.

6.3 DESIGN AND VISUAL IMPACT

6.3.1 The proposed dwelling is of a modern and innovative appearance that is in complete contrast to any of the dwellings present within its immediate vicinity, which is characterised by more conventional detached and semi-detached properties dating from the 1920s. The case officer for the previous application noted that, whilst the previous design utilised hipped roofs in keeping with surrounding property, the introduction of a bungalow in this location would be at odds with the prevailing dwelling type with the design failing to correspond with the established character of dwellings within the locality.

6.3.2 Whilst it is recognised that the introduction of a bungalow in this location would be at odds with the prevailing dwelling type, consideration has to be given to the design aesthetic of the current proposals based on their own merits, particularly in contrast to the fairly uninspiring and non-descript design of the previous scheme. Moreover, the proposed bungalow would not be visible within the context of Ballanard Road, with only glances views of the dwelling likely to be possible from at the very far end of Terence Avenue. The proposed dwelling has been notably shifted further eastward within the plot relative to the streetscene, and therefore the visual impact of the development has been naturally reduced.

6.3.3 In any case, the design and form the proposed dwelling is considered to be of architectural merit through its asymmetrical vernacular and fenestration. Paragraph 4.3.11 of the Strategic Plan notes that new styles of housing, particularly those which draw their design principles in an effort to promote sustainability and energy efficiency, will generally be welcomed provided they take into account the landscape context and impact upon the amenities of their locality. Likewise, Strategic Policy 5 states that new development should be designed so as to make a positive contribution to the Island's environment.

6.3.4 Notwithstanding this however, it is recognised that both the design and dwelling types of the proposals is not reflective of its immediate surrounding and therefore represents a potential degree of conflict with Environment Policy 42 which states that development should be designed to take account of the particular character and identity of existing settlement, whilst inappropriate backland development will not be permitted. However, the preceding commentary within paragraph 7.34.1 of the Strategic Plan which is interlinked with this policy notes that development is required to protect the character and amenity of the locality, be of a high standard of design and respect local styles.

6.3.5 That being said, this needs to be balanced against the commentary within Strategic Policy 5 and a review of any residual harm associated with the development upon the character and visual amenities of the locality. In this instance, the proposals are not considered to represent substantial harm in this sense and, whilst not wholly visible from the public realm, would in any case provide an interesting addition to the immediate locality which would not appear overdominant or unduly incongruous in a visual sense. On balance therefore, the proposals are considered to be acceptable from a design and visual impact perspective, displaying general conformity with the principles and aspirations of Environment Policy 42 and its preceding text, together with Spatial Policy 5 and General Policy 2 (b) and (c) of the Strategic Plan.

6.4 RESIDENTIAL AMENITY

6.4.1 Due to the proposed building's height and single storey layout, the intervening vegetation and existing boundary treatments, together with the retained distance between the proposed dwelling and neighbouring properties; it is not considered that the development would pose a detrimental impact to the amenities of neighbouring dwellings in terms of overlooking, loss of light and overbearing impacts.

6.4.2 In contrast to the previously refused scheme, the dwelling has been reoriented within the plot, with the primary garden/amenity space to serve the new bungalow to be within the western portion of the site and thus shielded from view of primary first-floor windows serving No. 11 Ballanard Road. Likewise, the eastern elevation of the new dwelling would only include 2 small narrow windows serving a utility room and walk in wardrobe. Therefore, primary windows serving the property would equally not be overlooked by corresponding windows at No. 11. On this basis, the proposals are considered to provide a satisfactory level of amenity for future occupants of the proposed dwelling, with a sufficient degree of separation (circa. 10m) to be retained between the rear elevation of No. 11 and the side elevation of the new property.

6.4.3 On this basis, the proposals are considered to suitably safeguard the amenities of surrounding residential property, whilst providing a satisfactory level of amenity for future occupants of the proposed bungalow, in compliance with General Policy 2 (g) and (h) of the Strategic Plan.

6.5 BIODIVERSITY AND ARBORICULTURE

6.5.1 No objections have been raised by the Ecosystems Policy Officer over the proposals, subject to the scheme being undertaken in full accordance with the submitted landscaping scheme and the implementation of various ecological mitigation measures within the site. Concerns raised by the case officer in relation to the previous scheme largely centred on the fact that much of the ecological enhancement were proposed outside of the site itself, which is no longer the case. Likewise, the addition of a green sedum roof to the dwelling further aids in boosting the site's biodiversity credentials, subject to details of the final seed mix being provided to the Department for approval by way of condition.

6.5.2 Details of tree protective fencing and a no dig zone along part of the site's northern boundary have been detailed in the accompanying plans. Concerns raised by local residents in relation to a mature Elm tree in the adjacent site of No. 9 to the south are noted, however it is considered that the tree is sited a sufficient distance from the site and proposed areas of construction that it's healthy and vitality would not be materially affected as a result of the development. Details of tree protection and mitigation contained within the accompanying plan can be suitably conditioned should planning permission be forthcoming.

6.6 HIGHWAYS AND PARKING

6.6.1 The proposals would include a sufficient level of on-site parking for 2 vehicles, with no concerns raised by Highway Services with respect to the site's connection with Terence Avenue. The proposals would allow vehicles to access and egress from the site in forward gear with sufficient space for the manoeuvring of vehicles within the site. Consequently, the proposals are considered to be acceptable from a highway safety standpoint, in compliance with Transport Policies 4 and 7 of the Strategic Plan.

6.7 OTHER MATTERS

6.7.1 A percolation test was undertaken at the site in April 2023 in support of the previous application, the results of which has been resubmitted for this application. Whilst Manx Utilities Authority have not commented on this application, it is noted from their previous response in April 2023 that, on the basis of the results of the percolation test, they has no objection to the proposals. This however was subject to a condition being attached to any forthcoming decision notice ensuring that there would be no discharge of surface water into the foul drainage system, and that the proposed dwelling must be connected to the public sewer in a manner acceptable to MUA.

7.0 CONCLUSION

7.1 The proposed development is acceptable in terms of its form, mass and design by providing a well-designed new dwelling that is appropriate in terms of scale and footprint. The proposals would not result in a detrimental impact upon the character and visual amenity of the immediate locality, whilst ensuring that the amenities of surrounding residential properties would be suitably safeguarded. The proposals would further ensure that future occupants of the dwelling would benefit from a good standard of amenity.

7.2 The proposals are further deemed to be acceptable from a biodiversity and arboricultural standpoint, with no material concerns raised with respect to parking and highway safety. On this basis, the proposals are considered to be in compliance with Strategic Policy 5, Spatial Policy 1, General Policy 2 and Environment Policies 3, 4, 5 and 42, and Transport Policies 4 and 7 of the Isle of Man Strategic Plan (2016). The application is therefore recommended for approval.

8.0 INTERESTED PERSON STATUS

8.1 By virtue of the Town and Country Planning (Development Procedure) Order 2019, the following persons are automatically interested persons:

- (a) the applicant (including an agent acting on their behalf);
- (b) any Government Department that has made written representations that the Department considers material;
- (c) the Highways Division of the Department of Infrastructure;
- (d) Manx National Heritage where it has made written representations that the Department considers material;
- (e) Manx Utilities where it has made written representations that the Department considers material;
- (f) the local authority in whose district the land the subject of the application is situated; and
- (g) a local authority adjoining the authority referred to in paragraph (f) where that adjoining authority has made written representations that the Department considers material.

8.2 The decision maker must determine:

- o whether any other comments from Government Departments (other than the Department of Infrastructure Highway Services Division) are material; and
- o whether there are other persons to those listed above who should be given Interested Person Status

PLANNING AUTHORITY AGENDA FOR 12th February 2024

Item 5.2

Proposal : Combined approval in principle and full approval for a residential development seeking planning permission for the erection of 66 dwellinghouses and 12 flats, site access, Spine Road through the site, drainage, car parking and associated landscaping (Phase 1). Outline Planning permission for development of up to 127 new residential units in the form of dwellinghouses and flats, flexible commercial space, a new public house and new retail space with all matters reserved save for access

Site Address : Land At Poylldooey
Fields And Part Fields 134271, 134253, 134270, 134272, 131273, 131276, 132274 & 134274
Ramsey
Isle Of Man

Applicant : Blythe Church Investments Holdings Ltd

Application No. : 22/00679/B- [click to view](#)

Planning Officer : Mr Hamish Laird

RECOMMENDATION: To APPROVE the application subject to a legal agreement

Recommended Conditions and Notes (if any) once the required legal agreement has been entered into

C 1. The development within the land outlined in red on drawing numbers 296-300-101 Rev. C and 296-100-302 Rev. C, hereby permitted, shall be begun before the expiration of four years from the date of this permission.

Reason: To comply with Article 26 of the Town and Country Planning (Development Procedure) Order 2019 and to avoid the accumulation of unimplemented planning approvals.

C 2. The development of the Spine Road within the land outlined in red on drawing numbers 296-300-101 Rev. C and 296-300-102 Rev. C, hereby permitted, shall be completed up to base course level for the entirety of its length including ironwork, the footways on the highway frontage; visibility splays; and, a site compound and car park have been constructed in accordance with the Construction Environment Management Plan (CEMP) required by Condition No. 14 prior to the first building of any residential units permitted by this planning permission.

Reason: In the interests of the proper development of the application site by providing a road connection between Auldyn Walk and Poyll Dooey Road at the earliest opportunity; and, to act as a flood defence barrier to the development proposed located on the south side of the Spine Road.

C 3. Prior to the commencement of development on Phase 1 of the site area, samples and details of the materials proposed to be used for the main walls and roofs of the dwellings, hereby permitted, shall be submitted to and approved in writing by DEFA Planning. The development shall be carried out in accordance with the approved details. For all other construction materials for the external surfaces of the dwellings such as rendering; window

and door frames; guttering and downpipes; the details outlined on the approved drawings for each dwelling type shall be adhered to.

Reason: In the interests of visual amenity and to secure a high quality form of development that would readily assimilate into its surroundings.

C 4. Notwithstanding the provisions of Class A, Schedule 1 of the Town and Country Planning (Permitted Development) (Temporary Use of Development) Order 2015 or any order amending, revoking or re-enacting that Order no excavated materials, building materials, plant or machinery associated with the development shall be stored on any part of the site area located to the north of the line of the Spine Road.

Reason: To safeguard components of habitats and wider ecological networks located to the north of the site including areas of salt marsh along the Sulby River; and, to protect priority species.

C 5. Before any part of the development hereby permitted is begun within the land outlined in red and shaded brown on drawing number 296-300-P2 Rev. C, application for approval of the Reserved Matters of the layout, scale and appearance of the buildings and the landscaping of the site shall be made to the Department before the expiration of two years from the date of this approval and thereafter the development shall only be carried out in accordance with the details as approved.

Reason: This part of the application was submitted in outline with access approved and all other matters of layout, scale, appearance and landscaping reserved for future consideration (the Reserved Matters) in accordance with the provisions of Part 3 (1) (2) and (4) of Schedule 1, Part 3 of the Town and Country Planning (Development Procedure) Order 2019, or any Order revoking or re-enacting that Order.

C 6. No tree removal, site or vegetation clearance may take place until the ecological surveys requested in Condition 8 have been submitted to DEFA Planning and approved in writing and the mitigation recommendations signed off as part of the Landscape and Ecology Mitigation Plan (LEMP) required by condition 7 of this planning permission.

Reason: To ensure that adequate time is allowed for the site to be assessed in respect of its ecological, landscape and biodiversity value to be assessed by the ecological surveys required by condition 8 of this planning permission are evaluated and able to inform the preparation of the LEMP required by condition 7 of this planning permission.

C 7. Prior to the commencement of development on Phase 1, and to the submission of any Reserved Matters application, a Landscape and Ecology Mitigation Plan (LEMP) shall be submitted to and approved in writing by DEFA Planning. This information shall include:

A. An annotated, visual and ecological constraints and opportunities plan highlighting visually sensitive areas, distinctive trees, hedges, sod banks, buildings, and view corridors out to the surroundings to the north incorporating the Poyll Dooley Nature Reserve up to the Sulby River where it runs to the north and east of the site between the White Bridge and the Spine Road access onto Poyll Dooley Road.

B. An annotated landscape and ecological impacts plan that provides details of the physical impacts of the proposals on the landscape and ecological features detailed in A above; and

C. Avoidance/mitigation/compensation/enhancement measures.

D. Timescale for implementation and ongoing management (minimum 10 years required).

The plan should demonstrate how existing landscape and ecological value is being conserved as far as possible, how impacts have been minimised, and what opportunities for enhancement have been taken; and, include an ecological habitat balance sheet that sets out losses and gains as well as the likely time lag between loss and effective habitat gain. The LEMP shall apply to both the Full and Outline elements of the site (Phases 1 and 2) and any Reserved Matters applications for the site shall incorporate the approved Landscape and Ecology Mitigation Plan (LEMP). The development shall be carried out in accordance with the approved details.

Reason: To identify, map and safeguard components of habitats and wider ecological networks and to protect priority species, and identify and pursue opportunities for securing measurable net gains for biodiversity in accordance with the provisions of General Policy 2, and Environment Policies 1, 3, 4, 5, 7, 13, 22, 24 and 42 in the Isle of Man Strategic Plan 2016.

C 8. Prior to the commencement of development on Phase 1, and to the submission of any Reserved Matters application, in addition and supplemental to the requirements of conditions 6 and 7 of this planning permission, the following schedule of survey work shall be carried out and shall inform and be incorporated into the LEMP by way of mitigation as and where necessary. Such survey work shall include:

Breeding and wintering bird surveys;
Fungi surveys;
Bat roost and activity surveys Invertebrate surveys;
Schedule 7 and rare plant surveys;
Common frog surveys;
Common lizard surveys;
Schedule 8 plant surveys.

All of which need to be undertaken following UK best practise guidelines, in the right seasons and by a suitably qualified ecological consultancy.

Reason: To identify, map and safeguard components of habitats and wider ecological networks and to protect priority species, and identify and pursue opportunities for securing measurable net gains for biodiversity in accordance with the provisions of General Policy 2, and Environment Policies 1, 3, 4, 5, 7, 13, 22, 24 and 42 in the Isle of Man Strategic Plan 2016.

C 9. The detailed drawings required to be submitted by Condition 5 (reserved matters) shall include the following information: boundary treatments, existing and proposed site levels, finished floor levels and materials, details of all public open space and green infrastructure, arboricultural method statement and tree protection plan to BS 2012:5387 to include any engineering details required for no-dig construction and thereafter the development shall only be carried out in accordance with the details as approved.

Reason: To enable DEFA Planning to consider whether adequate provision is being made for the matters referred to in the condition in the interests of visual amenity and to secure a high quality form of development that would readily assimilate into its surroundings.

C 10. Prior to the commencement of any development across the application site (both Phases), for Phase 1 and the first Reserved Matters application to be submitted a strategy for the management and maintenance of all green infrastructure across the application site (including, for the avoidance of doubt, all areas of public open space). The strategy document shall set out the funding, management, maintenance, access and use arrangements for each area of the site, and a delivery plan identifying a trigger date for the completion of each of the relevant green infrastructure and public open space areas. The Reserved Matters application for the site shall incorporate the approved details and thereafter the development shall only be carried out in accordance with the details as approved.

Reason: To ensure that green infrastructure and public open space is delivered for the amenity of future residents in a timely manner in accordance with the approved Masterplan drawing number 296-300-100 Rev. F for the site.

C 11. As part of any application for Reserved Matters, the applicant shall provide a detailed schedule of all measures to be put in place for the protection of the Saltmarsh Area and the Sulby River. Such details shall include any required drawings to show how and where surface water is to be taken off site. This should not go through the Saltmarsh Area.

Reason: To ensure that adequate provision is made for the protection of the Saltmarsh habitat area on the Sulby River arising from the development. This is due to the Saltmarsh Area being the largest Blue Carbon sequestration site on the Island.

C 12. The application(s) for Reserved Matters to be submitted shall include details of a package of proposals to enhance public understanding and enjoyment of the areas of public open space to be created throughout the site in relation to the Sulby River and the adjoining Poyll Dooley Nature Reserve and the nearby saltmarsh environment. Such proposals shall include interpretation materials. The development shall be carried out in accordance with the approved details.

Reason: To provide public benefits in the form of interpretation and understanding of the site and surroundings with emphasis on the relations of the site to the Sulby Riverside, saltmarsh and Poyll Dooley Nature Reserve.

C 13. The first occupation of any dwelling in both Phase 1, and as part of any Reserved Matters submission(s) for Phase 2 shall not take place until the following works have been approved in writing by DEFA Planning and constructed and made available for use:

A. The street lighting for the spine road and cul-de-sacs and footpaths has been erected and is operational;

B. The car parking and other vehicle access facilities required for the dwellings by this permission has/have been completed;

C. The verge and service margins and vehicle crossing on the road frontage of any dwelling have been completed with the highway properly defined; and,

D. The street name-plates for the spine road and cul-de-sacs have been provided and erected.

Reason: To ensure that adequate access and associated facilities are available for traffic attracted to the site.

C 14. Notwithstanding the provisions of Schedule 1, Class A, of the Town and Country Planning (Permitted Development) (Temporary Use or Development) Order 2015, the provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land where planning approval has previously been granted following an application, is expressly prohibited by this condition in relation to any part of the site located on the north side of the line of the Spine Road.

Reason: The erection of any such building or creation of a compound for the storage of plant, machinery, construction materials etc. shall be carried out in accordance with the provisions of Condition 2, of this permission owing to the ecologically sensitive nature of the site and surroundings.

C 15. No retained tree, hedge or bank shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars. In the event that retained trees become damaged or otherwise defective during the construction phase due to events outside of the applicant's control the Department shall be notified as soon as reasonably practicable and remedial action agreed and implemented.

Reason: To ensure that trees marked for retention are not removed, in the interests maintaining the amenities of the area and to ensure the visual impact of the development is mitigated.

C 16. Prior to the commencement of the development hereby approved a tree protection scheme, arboricultural method statement and an arboricultural monitoring schedule shall be submitted to and approved in writing by the Department. Tree protection measures shall be shown on a layout plan accompanied by descriptive text which includes but is not limited to details of:

- a) The location of the trees to be retained and their canopy spreads;
- b) The location of a 'construction exclusion zone'
- c) The position of protective fencing and/or other protective measures required to prevent damage to retained trees.
- d) An appropriate specification for the protective measures proposed.
- e) A schedule of arboricultural monitoring.

The development must be carried out in accordance with the approved details. No alterations or variations to the approved tree protection scheme or working methods shall be made without prior written consent of the Department.

Reason: required prior to commencement to ensure that all trees to be retained are adequately protected from damage to health and stability throughout the construction period to protect and enhance the appearance and character of the site and locality.

C 17. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Thereafter, all soft and hard landscape works shall be permanently retained in accordance with the approved details.

Reason: In the interests of visual amenity and to secure a high quality form of development that would readily assimilate into its surroundings.

C 18. Prior to the commencement of any works on site, precise details of a finalised surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by DEFA Planning for both the Phase 1 (full element) and Phase 2 (outline element) of the scheme. The detailed surface water drainage scheme with calculations must be provided showing the position of attenuation tanks/ponds behind the spine road and not within the flood area. The surface water system is to be designed to not surcharge in a 1 in 50 year event and the storage must be for a 1 in 100 year plus climate change event.

The surface water scheme shall be implemented in accordance with the submitted details before the development is used for the first time.

Reason: To prevent increased risk of flooding and to improve and protect water quality and ensure future maintenance of the surface water drainage system and to prevent increased risk of flooding.

C 19. Prior to the commencement of any works on site, details of maintenance and management of the surface water sustainable drainage scheme have been submitted to and approved in writing by DEFA Planning for both the Phase 1 (full element) and Phase 2 (outline element) of the scheme. Such details shall include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

Reason: To ensure future maintenance of the surface water drainage system and to prevent increased risk of flooding.

C 20. Prior to the commencement of any works on site, precise details of foul water drainage provision to serve the development, hereby approved, shall be submitted to and approved in writing by DEFA Planning. Such approved drainage scheme shall be installed prior to the development hereby permitted being first occupied and shall thereafter be retained and maintained at all times.

Reason: To ensure that the site is adequately drained and does not increase the risk of flooding elsewhere.

C 21. Details of the flood embankment to be provided prior to starting any works on site are to be designed to current industry standards and best practice.

Reason: To minimise the potential impact of flooding and flood risk arising from the development both on-site and up and downstream of the site along the Sulby River.

C 22. The Culvert design under the flood embankment shall be designed to CIRIA guide C786 (Culvert Screen and Outfall Manual). This is subject to consent under the Flood Risk Management Act 2013, section 20.

Reason: To minimise the potential impact of flooding and flood risk arising from the development both on-site and up and downstream of the site along the Sulby River.

C 23. The Reserved Matters application for phase 2 must include a flood risk assessment that shows rate of flood water rise both tidal and fluvial, flood water velocity and depth. This area contains children's play areas, light industrial units, pub/community area and it must be demonstrated how in time of flood, especially a fluvial flood, where there is no flood warning how people will be evacuated.

Reason: To ensure that the site is adequately drained and that the area can be evacuated safely before and during a flood.

C 24. The siting of the Public House/Community Facility as shown on drawing number 296-300-100 Rev. F - Masterplan for the site (stamped received and dated 20 March, 2023) is specifically excluded from this planning permission. The proposed siting of the Public House/Community Facility shall be submitted as part of an application(s) for Reserved Matters following agreement on its siting with DEFA Planning prior to submission.

Reason: In the interests of protecting neighbours residential amenities from visual intrusion and noise and light pollution arising from the operation of the facility.

C 25. Prior to the occupation of any dwellings, details of the addition of bat, bird and bee bricks to be installed as part of the development shall be submitted to and approved in writing by DEFA Planning prior to works commencing and the that development then carried out in accordance with these details. Thereafter, these features shall be permanently retained and maintained. Details should include the number, type and location of the bricks. Bat bricks should include types suitable for cavity and crevice dwelling species and in locations which facilitate the lifecycle of bats (locations to facilitate breeding and hibernating). Bird bricks should include types suitable for swift and house martin.

Reason: To ensure that the development has an acceptable impact on the environment.

C 26. No external lighting within any area of new or retained Public Open Space (other than in connection with any area of formal playspace such as the LAP, LEAP or NEAP) shall be installed except in accordance with a detailed external low level lighting scheme which complies with the recommendations outlined in the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (2023), which shall have been submitted to and approved in writing by the Planning Department.

Reason: To provide adequate safeguards for the ecological species existing on the site. (See Manx Bat Group Bat Activity Survey).

C 27. In respect of the highways layout, and design details, the development, hereby approved, shall be carried out in accordance with:

- a) Access and layout to accord with Drawing Nos. 296-300-100 rev F, 296-300-101 rev c; and, 296-300-102 rev c; Tetra Tech Drawing Site Access Option 2: Ghost Island General Arrangement and Visibility Splays 002 Rev P02.
- b) Bike and bin stores to accord with drawing for all dwelling house types.
- c) Travel Plan - no part of the development hereby approved shall be occupied prior to the implementation of the Tetra Tech Travel Plan 784-B030691 rev 03 May 2022 or those parts capable of being implemented prior to occupation and thereafter implemented to timetable contained therein and shall continue to be implemented for five years / as long as any part of the development is occupied.

Reason: In the interests of highway safety.

N 1. The Applicant is advised that new street adoption and works in the highway would require separate agreement with Highways under a s4 and s109(A) Highway Agreement after grant of any planning consent. On construction of the vehicular access, the existing road drainage must either be retained or an effective alternative scheme provided at the Applicant's / Developer's expense on a satisfactory arrangement being drawn up and agreed

with the Highway Services' Drainage team. Other highway licences and / or temporary traffic management or road closures may be necessary on construction.

N 2. FOR YOUR INFORMATION

Please be aware that a ban on the installation of fossil fuel heating systems in any new building(s) and or extension(s), will come into force on 1st January 2025.

You therefore are encouraged to ensure that your proposed development includes alternatives to fossil fuel heating systems if you believe that such works will not be completed by that date.

To this end, if you propose an alternative, such as air source or ground source heat pump(s), or any other heating system that would require planning approval, the details of this should be addressed now. This may require you to resubmit your planning application to accommodate the alternative permitted heating system proposed.

Reason for approval:

Overall, the application is considered to be acceptable as the benefits offered by the proposed development are considered to outweigh the dis-benefits. The application accords with the provisions of the following relevant Policies in the Isle of Man Strategic Plan 2016, which are:

Chapter 4 - Strategic Objectives: STRP1, STRP2, STRP3, STRP4, STRP10, STRP11;

Chapter 5 - Island Spatial Strategy: SPP2, SPP3;

Chapter 6 - General Development Considerations: GEN2, GEN3, GEN4;

Chapter 7 - The Environment: ENV1, ENV3, ENV4, ENV5, ENV7, ENV10, ENV13, ENV22, ENV24, ENV28, ENV42;

Chapter 8 - Housing: H1, H2, H5;

Chapter 10 - Sport, Recreation, Open Space and Community Facilities: RP1, RP4, RP5; and, CP1, CP2, CP11;

Chapter 11 - Transport, Infrastructure and Utilities: TP1, TP2, TP3, TP4, TP5, TP6 and TP7.

and the advice contained in the Ramsey Local Plan (RLP) 1998; and, West Ramsey Development Framework (WRDF) 2004; and, is recommended for approval subject to the prior signing of a Section 13 Agreement.

Interested Person Status – Additional Persons

It is recommended that the owners/occupiers of the following properties should be given Interested Person Status as they are considered to have sufficient interest in the subject matter of the application to take part in any subsequent proceedings and are mentioned in Article 4.2:

Pooldhooie Limited, Dandara Group Head Office, Isle of Man Business Park, Cooil Road, Braddan, Isle of Man, IM2 2SA

as they satisfy all of the requirements of paragraph 2 of the Department's Operational Policy on Interested Person Status (July 2021).

It is recommended that the owners/occupiers of none of the following properties should be given Interested Person Status as they are considered not to meet the requirement of being located within 20.0m of the site boundary; and, as such do not have sufficient interest in the

subject matter of the application to take part in any subsequent proceedings mentioned in Article 4.2:

Watersmeet, Westfield Drive, Ramsey, IM8 3ER
2 Belmont Villas, Jurby Road, Ramsey, IM8 3PF
West View, Westfield Drive, Ramsey, IM8 3ER
Pine View, Westfield Drive, Ramsey, IM8 3ER
River House, Riverside, Ramsey, IM8 3DA
47 Lezayre Park, Ramsey, IM8 2PT
26 Greenlands Avenue, Ramsey, IM8 2PE
6 Dreeym Ollay, Ramsey, IM8 2QA
16 Fairway Drive, Ramsey, IM8 2BB
Port Natal, Riverside, Ramsey, IM8 3DA
Manx Natural Heritage

The above persons, therefore, do not satisfy all of the requirements of paragraph 2 of the Department's Operational Policy on Interested Person Status (July 2021).

It is recommended that the following Government Departments should be given Interested Person Status on the basis that they have made written submissions that relate to planning considerations:

Flood Management Division (DOI)
Manx Utilities Drainage
Public Estates and Housing (DOI)

Planning Officer's Report

23/00679/B - THE PLANNING APPLICATION IS BEFORE THE PLANNING COMMITTEE BECAUSE IT PROPOSES A MAJOR DEVELOPMENT ON AN ALLOCATED SITE AND A SECTION 13 LEGAL AGREEMENT IS PROPOSED

REVISED REPORT
UPDATED 2nd FEBRUARY, 2024

Members of the Planning Committee will recall that this item was originally presented to the Committee for consideration as Agenda Item 5.1 at the Meeting on 15th January, 2024. (Referred to hereon as the 15/1/24 Meeting). At the 15/1/24 Meeting, and as outlined in the Draft minutes of the Meeting, consideration of the application was deferred to enable Committee Members to conduct a Site Visit, which convened on Site at 10:00 on Thursday 18th January, 2023. The notification of the Site Meeting was advised at the end of the Committee Meeting immediately prior to its closure by the Committee Chairman.

Those in attendance considered that the main issues were:

- o Drainage
- o Affordable Housing provision
- o The siting of the PH/CF on a recognised area of Public Open Space; and, its relationship to the dwelling at River House, Riverside located on the opposite bank of the Sulby River
- o The extent of tree and hedgerow removal; and,
- o The impacts on wildlife;
- o Impact on Public Rights of Way;
- o Interested Party Status;

CONSULTATION RESPONSES

Following the publication of the Agenda and subsequent to the 15/1/24 Planning Committee Meeting, further consultation responses were and have been received from:

Ramsey Town Commissioners:

Manx Utilities Authority:

DoI Highways Drainage:

DoI Highways (Footpaths) Public of Way Manager:

DEFA Ecosystems Policy Officer:

DEFA Arboricultural Officer - Forestry, Amenity and Lands Directorate:

DEFA Inland Fisheries:

DoI Flood Risk Management Division (FMD):

DoI Public Estates and Housing Division:

These are in addition to those previously advised in précised form at Section 5 in the Officer Report to Planning Committee Meeting on 15/1/2024, and read as follows:

Ramsey Town Commissioners (9/1/2024) - Comments:

"Ramsey Town Commissioners have no objection to the amended plans/additional information."

Manx Utilities Authority (12/1/2024) - Comments:

"Please pass on my comments onto the applicant as they do need to be actioned especially ensuring the pump main is protected or diverted.

Both of the conditions below for surface water infrastructure appear fine with me as long as they are can enforceable before development work commences - although the development of a surface water strategy for phases 1 & 2 could be contradicted by the flood risk assessment. What is the situation if the applicant cannot develop such a workable scheme that meets with all MU, FMD & DOI Highways requirements, does this mean the development cannot commence?

From a MU perspective, the public adoption of the foul and/or surface water infrastructure will not be considered until we are totally satisfied that the proposals meet with our requirements."

DoI Highways Drainage (12/1/2024) - Comments:

"Surface Water Drainage

Paragraph 11.8.1 of the Strategic Plan states that:

"all new development must be capable of being drained of foul and surface water in a safe, convenient and environmentally acceptable manner."

The drawings do not include any surface water drainage details so the Applicant has not demonstrated how surface water runoff from the estate roads will be drained in a safe manner. Developing the site will undoubtedly increase the risk of flooding due to the introduction of impermeable areas and we cannot assess the risk without a detailed drainage design and supporting calculations. The Applicant has produced a Preliminary Drainage Assessment report No. FWM8791-RT002 R01-00, which does not appear to have been included with the planning application submission (see attached). Section 6.5 of the report "Next steps" states that:

"This report provides two options for stormwater drainage of the protected area and an approach for the unprotected area. The next step is for these approaches to be reviewed by

the relevant stakeholders including Manx Utilities, the Department of Infrastructure and DEFA Fisheries Division.

Once the approaches for the protected area and the unprotected area are agreed, modelling should be carried out to develop the designs and provide information on flow rates, storage volumes and flow velocities. This information would then be used to prepare detailed designs for the drainage systems."

The Applicant has never approached us to discuss the options and as far as we are aware, no option has been agreed. Where the estate roads are to be offered for adoption under Section 4 of the Highway Act 1986, the DOI have determined that a detailed highway drainage design and calculations should be supplied for all developments at the detailed planning application stage so that the flood risk can be adequately assessed in line with the Strategic Plan. The Applicant has not mentioned the surface water drainage system that serves Greenlands Avenue and Lezayre Park that discharges into a watercourse within the development site (see plan attached).

Flood Risk Assessment and Applicant's Response to floodplain objection

Section 3 of the Response to floodplain objection "Site Location" states that:

"Planning Application 03/00790/B covers most of Zones 2 and 3 in the West Ramsey Development Framework. This is the area to the west of the site, outlined in yellow on Figure 3.1. Part of this site is in the floodplain of the Sulby River and includes a flood defence, indicated on Figure 3.1. The Planning Application has been approved and development is in progress. Development in Zone 2 including the spine road is complete. The design crest level of the flood defence is 6.35 m AD02. This level is above the maximum flood level including an allowance for climate change."

Planning Application 03/00790/B was approved in April 2006 and whilst the development has started, the flood defence bund has not been constructed and there is no guarantee that it will be. It is our understanding that flood modelling undertaken after the planning application was approved indicates that if the flood defence bund is constructed it would increase fluvial flooding around Auldryn Walk and the property Greenlands off Gardeners Lane.

Section 5.2 of the Response to floodplain objection "Approach to managing the flood risk" states that:

"The spine road connects with the raised defence in the development to the west of the site to provide a continuous line of flood protection."

As above, the raised defence has not been constructed and at present there will not be a continuous line of flood protection. To provide a continuous line of flood protection at a level of 6.50m AD02, the spine road would have to be extended westward for about 170m to a point where it met Auldryn Meadow Drive. The existing road levels either side of the proposed spine road are 4.50m AD02 to the east and around 5.30m AD02 to the west. During future extreme tidal events it is predicted that these sections of road would be 1.50m AD02 and 0.70m AD02 below the tidal level of 6.01m AD02 and emergency access to the development would not be possible. The estate road to the north of the spine road would be nearly 2.0m below the extreme tidal level. We would not advocate adopting new estate roads that are predicted to flood to these levels.

Section 4.1 of Flood Risk Assessment "Introduction" states that:

"The development itself including buildings and access routes is safe from flooding in present and future conditions (with climate change)."

The access routes are not safe from flooding (see above).

Recommendation: Due to the lack of surface water drainage details and calculations together with the extent of flooding predicted during extreme tidal events to parts of the estate roads, we recommend that our Highway Asset Management Division do not enter into a Section 4 adoption agreement if the application is approved."

DoI Highways (Footpaths) Public Rights of Way Manager (16/1/2024) Comments:

"I am writing to inform you that the Department has been made aware of a series of potential footpaths which would affect this planning application. I apologise I have not contacted you sooner as I mistakenly believed once the consultation period had finished I could not make representations. We received a request for several footpaths across Poyll Dooey fields to be dedicated under Section 88 of the Highways Act (presumed dedication) which would affect some areas of the proposed development. Any member of the public can request a route, if it has had unimpeded access for a period of 21 years, to become dedicated as a public right of way (PROW), and from consulting with past aerial imaging I am satisfied the routes proposed have been used since at least 2001. As a PROW the routes would not be able to be obstructed and a diversion would need to be applied for in conjunction with a planning application in order to have the routes moved.

I believe from consulting the application several sections of these paths will affect the areas to be built on. I have attached a rough mark-up of the locations. I must stress these have not been measured and have been plotted quickly over the plans to ensure there was something put forward to give the committee an idea of the locations, I am satisfied that while they may not be mm accurate, they reflect the extent to which the proposals interact with the application. Alongside this I have attached the accurate paths on our mapping background which will be used for the Orders. We are in the process of drafting Orders for this which the landowners and local authority have been informed of. Once these are drafted they will go out for public consultation for a period of 28 days, if any objections are received from notified parties then a public inquiry must be held, as such there may be a considerable period of time before these are dedicated. If work had started and these became PROW the work would need removing at the landowners expense. As such there are implications to the development to be considered."

DEFA Ecosystems Policy Officer (22/1/2024):

The Ecosystem Policy Team have gone through your report to the Planning Committee now in detail and have concerns about its apparent omissions and therefore its conclusions and recommendations. The concerns are listed below, as are our recommendations for the updating of the conditions. Given the complexity and sensitivity of the area, and taking into account the pressure that Planning is under to make decisions, we feel in this case, it requires further consideration and engagement to ensure that this high profile development has been adequately and appropriately assessed.

Concerns regarding the Officer's report:

- o The Ecosystem Policy Team's objection appears to have been missed from the 'Representation Section' (Section 5) of your report, though certain limited elements of our objection are mentioned later on. As such, this appears to be selective, and is of general concern, as it presents a formal Departmental submission in an inaccurate way. This should be rectified.

- o The 'Benefits section' (7.1) of the report says that significant levels of ecological mitigation and landscaping have been proposed, but one element of the Ecosystem Policy objection (which, as noted, is not actually included in the report) is the lack of mitigation - The project ecological consultants, JBA, has recommended tree retention (which has not been

done) and a CEMP, and the applicants are to undertake some replanting and other landscaping, but there are no details in the documentation on the planning portal of what this significant level of ecological mitigation would be or where it is to take place.

o For example the applicants have provided no information about how they are going to mitigate their impacts upon the two red listed plant species of highest conservation concern which are also legally protected via inclusion on Schedule 7 of the Wildlife Act 1990. They don't seem to be intending to avoid building in the area where they are present which would be our definite preference (though details of exactly where the plants are located hasn't been provided) so therefore translocation will need to be considered, but where are they going to translocate to? It will have to be on site in an area that is to be protected and managed accordingly, unless they intend on doing this offsite in which case a S13 agreement will be required.

In addition, the Ecosystem Policy Team has provided detailed comments in its submission (also reproduced below) about the overall lack of survey effort to inform the mitigation requirements.

As such, it is difficult to see how the current levels of ecological mitigation can be considered as a benefit.

o Development in some areas of the site is not in accordance with the land zonation but this is not acknowledged in the Report and therefore may not be adequately taken into account in the decision making process.

o Section 7.16 states that "Officers have consulted with the Ecosystem Policy Officer with a view to formulating conditions that should be applied in the event of an approval being granted which would limit the impacts of the development on the site and surroundings." As discussed, this is not accurate, since we have not been consulted with in regards to conditions. However, we are taking the opportunity below to consult with you on the draft conditions.

o Section 7.17 states that "It is considered that on balance, the proposed development is acceptable in terms of its potential for adverse impacts on the existing ecology and habitat of this statutorily unprotected, allocated site". The Ecosystem Policy Team would be interested in understanding how this was balance was determined, especially considering that the Ecosystem Policy Team do not believe that the correct balance has been struck, noting the other issues specified within this email. Is there a methodology for determining if and how economic benefits outweigh other issues?

o Section 8.02 indicates "There is a lot of pressure on environmental grounds from various bodies both within and outside Government for no development to take place and for the site to remain as a 'wild area' which may flood occasionally, and over time, it is likely to increase in its biodiversity offering. It is noted that the site could also be farmed (cattle/sheep grazing) as of now which would diminish its biodiversity value." We will make a couple of comments in response to this statement: Firstly, a well-managed sheep or cattle grazing regime would be of benefit to parts of this site, so this point appears invalid. Secondly, The Ecosystem Policy Team has never indicated a position for no development to take place, or that it would object in order for it to remain as a wild site. The Department tries to work cooperatively with developers to achieve balanced outcomes, based on appropriate survey, and in line with relevant legislative and policy requirements for environmental protection. As such, the basis for the objection was not the development in principle, apart from in the areas not zoned for residential development, but rather the specific issues noted in the submission, founded upon a professional assessment of the available information. Specifically;

- o the lack of appropriate ecological survey;
- o the largescale removal of habitat;
- o the impacts on protected and rare species;
- o the lack of ecological impact avoidance and mitigation;
- o the potential impact on the saltmarsh
- o lack of adherence to various policies within the Strategic Plan and the Isle of Man's Biodiversity Strategy.

The report therefore should be updated to accurately reflect the basis and arguments for our object.

o Further, and as previously discussed, DEFA Forestry's submission and objection appears to have been missed from the 'Representation Section' (Section 5) of your report and nowhere in the report is there mention of Forestry comments or tree removal at all; though Forestry have since sent in an additional response since the Committee sat on the 15th January. This is a major omission since the application includes 100% removal of 15 tree groups (of 26 surveyed on site, ie. significantly more than half), including 100% removal of two category B tree groups. There is also to be proposed to be 13% removal of a category A tree group and a total of 13,772m² of canopy loss. Forestry Division policy indicates that this would constitute an objection on multiple bases, and noting again Forestry's objection has been omitted from the Planning portal.

o Tree removal is not listed as a dis-benefit of the scheme (Section 7.1) within the report, but new landscaping is listed as a benefit, although the level of landscaping, at least in terms of ecology (though arguably not from an amenity perspective), does not mitigate for the loss of the large areas of relatively undisturbed mature/maturing trees and dead wood, which are proven to have much higher ecological benefits than newly planted trees, as well as the removal of scrub, hedges and grassland.

Additionally, with the site plan as presented, and without reduction in the number of properties, there is simply no space on site in which to undertake more mitigation tree planting and habitat creation.

As such, it is not ecologically valid to present new landscaping as a benefit on this basis. Tree removal should also be listed as a dis-benefit within the report, with details of the level of tree removal proposed.

o In regards to Section 7.12 of the report, Environment Policy 7 would apply, since saltmarshes are a type of wetland, supported by Strategic Objective 3.3 (a).

o Section 7.26 states- "No development would benefit wildlife and the immediate environment but would offer no economic and social benefits to the people of Ramsey and the surrounding area." - We would argue that the area already brings great social benefits to the people of Ramsey, since it is located in easy walking distance of the centre, and therefore gives people easy access to a 'wild' natural space where they can walk alongside, appreciate and learn about the natural world. Access to nature has proven an important health and wellbeing benefit. This is an important point considering that the social benefits of developing the site seem to have been used as a basis for approving the application.

Amendments to Conditions:

C6 - The wording of draft C6 for a Landscape and Ecology Plan (notwithstanding our earlier comments about lack of mitigation planting) appears appropriate and the 'balance sheet' concept seems valid. However, the applicants have not undertaken sufficient ecological survey work in order to inform an appropriate ecological mitigation plan and there is no

condition requiring them to do this further survey work. This is a significant failing of the proposal.

An additional condition is required to secure the following survey work, and for the outcome of this survey work to inform the Ecology Plan:

- o Breeding and wintering bird surveys;
- o Fungi surveys;
- o Bat roost and activity surveys
- o Invertebrate surveys;
- o Schedule 7 and rare plant surveys;
- o Common frog surveys;
- o Common lizard surveys;
- o Schedule 8 plant surveys.

All of which need to be undertaken following UK best practise guidelines, in the right seasons and by a suitably qualified ecological consultancy. This survey work would also need to be undertaken and the survey reports submitted to Planning for written approval prior to construction and enabling works taking place and should apply to the areas identified for full and outline approval. It should also be stipulated that if development has not commenced within 3 years of the date of these surveys, then the surveys will need to be repeated and the updated mitigation measures incorporated into the Ecology mitigation plan and CEMP.

However, the Ecosystem Policy Team has significant concerns with the principle of conditioning these ecological surveys rather than obtaining them prior to determination. The following summarises our concerns:

- o The surveys are likely to identify areas of habitat that should be retained because it contains protected or red list species; e.g. we know that the JBA found two species of legally protected (listed on Schedule 7 of the Wildlife Act 1990) and red listed plants on site, but they did not indicate where. Listing on Schedule 7 of the Wildlife Act 1990 means that the plants are protected from being intentionally or recklessly picked, uprooted or destroyed, their red listing means they are of highest conservation concern and at high risk of extinction on the Isle of Man, they are therefore of national importance (see Environment Policy 4) and priority needs to be given to their retention in-situ as translocations often fail. However, if the application is approved, the applicant would not then be able to modify the layout of the site in order to take the ecological mitigation recommendations into account, unless they submitted a new Planning application for a variation to what has been approved? Another example would be if the roost surveys found a significant bat roost, or the breeding bird survey found barns owls breeding in a tree that is to be removed to place a house, they would not be able to move the house to retain the roost or nest site.

As a secondary question. If that example actually came up and a significant bat roost or red listed nesting species were found, would Planning find it reasonable for us to request an alteration to the layout, requiring a new Planning application?

- o Though we can request that these surveys are undertaken prior to construction and enabling works (which would include prior to hedge and vegetation removal), we question the enforceability of this as a planning condition, because vegetation clearance does not constitute development. Surveys need to be undertaken before permission is granted, so that specific protection measures can be secured via condition. Surveys would also provide a basis for opening up a enforcement case against illegal activities, such as destruction of bat roots, or lizards and their habitats, should the need arise.

- o Can you include a condition which says that no tree removal, site or vegetation clearance may take place until the ecological surveys requested in Condition X have been submitted to

Planning and approved in writing and the mitigation recommendations signed off as part of the Ecology Plan in C6?

This would need to apply to the area identified for full and outline approval.

o It is apparent that Environment Policies 4 and 5 cannot be applied if we don't know if and where species of international, national or local importance are found. The Ecosystem Policy Team therefore seeks clarification as to whether and how the application of these policies has been considered in this assessment, given that two Wildlife Act 1990 Schedule 7 plants which are also red listed plants of conservation concern, have been found on site. Environment Policy 4 therefore applies in this case but no mitigation proposals have been put forward for their protection.

As such, this approval is already contrary to Environment Policy 4 & 5 which state that no development will be permitted unless planning conditions or agreements sought to (a) minimise disturbance; (b) conserve and manage its ecological interest as far as possible; and (c) where damage is unavoidable, provide new or replacement habitats.

o Taking into account that the Ecosystem Policy Team do not agree with the JBAs Preliminary Ecological Appraisal because of a lack of survey effort and a lack of mitigation recommendations, one recommendation that they did make was - "following bat roost surveys, it may be necessary to draw up some mitigation measures, such as enhancing the adjacent nature reserve or nearby areas." - this must be decided on prior to determination because offsite mitigation would need to be secured via a condition for a S13 Planning Agreement. We do not believe this can be retrospectively applied.

o In response to the various ecological concerns raised during the consultation, it is stated multiple times in the Planning Committee report that "it (the land) remains as agricultural land and it could be ploughed or grazed, with hedgerows trimmed, scrub removed, and trees cut back or felled, without any recourse to DEFA Planning". However, this does not accurately represent the situation on site or wider protections that are in place - tree felling licences would need to be obtained in order to fell the trees that make up the majority of the hedges, there are protections in place for habitats on agricultural land, and a grazing regime could be beneficial.

In particular, the above is stated in S7.10 of the report as an argument against getting further ecological survey, after which it states "The main benefit of surveys would be to inform the Reserved Matters development where the layout has not yet been fixed." However, this misses the point that the layout for the full approval is not yet fixed and only will be when Planning permission is granted. So the layout can and should be influenced now by the presence of species and habitats of conservation value, and impacts avoided as a priority. This all needs to be informed by appropriate surveys.

There have been multiple examples of developers changing proposed layouts of full applications to take into account the results of ecological surveys, even applications for single dwellings where the impact on trees is much smaller, so I don't see why this wasn't even considered for this application.

Condition 9 is appropriate but it needs to go further, or an additional condition applied which requires the applicant to provide details with the reserved matters application of the measures to be put in place for the protection of the saltmarsh area and the river. Are there any drawings to show how and where surface water is to be taken off site? This should not go through the saltmarsh area.

C11 - This needs to be updated to include measures for the protection of biodiversity, such as:

- o Details of a suitably qualified Ecological Clerk of Works who will be appointed for duration of construction and enabling works. This should include the individual/companies name and details of exactly what their role will entail.
- o Incorporation of Precautionary Working Method Statements for breeding birds, roosting, commuting and feeding bats, protected and rare plants, rare invertebrates, common lizards, common frogs and fungi.
- o Measures to be put in place for the protection of the saltmarsh, Sulby River and the downstream Douglas Bay Marine Nature Reserve - prevention of pollution and sedimentation etc. - this must include phased soil stripping and vegetation clearance, as and when development progresses throughout the site, no wholesale removal.
- o Soft felling methodologies.
- o Construction exclusion areas and use of protective fencing.
- o Low level construction lighting regimes.
- o Responsible avoidance and eradication plans for Schedule 8 plants.
- o Details of compliance monitoring including who will be undertaking monitoring for compliance with the CEMP, how often inspections will take place, who they will report to, who will be responsible for undertaking corrective action and how soon after non-compliance is found will corrective action be taken.

C14 - The wording of this needs updating

- o Our preference is for the use of integrated bird, bat and bee bricks which can be substituted for normal building bricks, because they will last for the length of time that the building is standing and don't require upkeep. In comparison, external boxes won't last that long, will need upkeep and replacing. So it's not applicable to request details of this prior to occupation of dwellings, since by that point the bricks should already be installed. Additionally, swallow cups would need to be located inside of buildings so aren't really appropriate and bat bricks have been missed out of this condition but are required mitigation, in line with the recommendations made in the Manx Bat Group's Bat Activity Survey report.
- o The condition needs to be reworded to say that details of bat, bird and bee bricks to be installed as part of the development shall be submitted to and approved in writing by DEFA Planning prior to works commencing and the that development then carried out in accordance with these details. Thereafter, these features shall be permanently retained and maintained. Details should include the number, type and location of the bricks. Bat bricks should include types suitable for cavity and crevice dwelling species and in locations which facilitate the lifecycle of bats (locations to facilitate breeding and hibernating). Bird bricks should include types suitable for swift and house martin.

Additional Conditions:

- o I don't know if a specific condition is required for an Ecological Clerk of Works if the CEMP is specific in saying that one is to be appointed, but it may be advisable to emphasise the requirement for one.
- o No external lighting shall be installed except in accordance with a detailed external low level lighting scheme which complies with the recommendations outlined in the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (2023), which has been submitted to and approved in writing by the Planning Department.

Reason: To provide adequate safeguards for the ecological species existing on the site. (see Manx Bat Group Bat Activity Survey)

o No retained tree, hedge or bank shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars. In the event that retained trees become damaged or otherwise defective during the construction phase due to events outside of the applicant's control the Department shall be notified as soon as reasonably practicable and remedial action agreed and implemented.

Reason: To ensure that trees marked for retention are not removed, in the interests maintaining the amenities of the area and to ensure the visual impact of the development is mitigated.

o Prior to the commencement of the development details of all tree protection monitoring and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required) shall be submitted to and approved in writing by the Department. The details should make provision for the regular reporting of continued compliance or any departure there from to the Department. The development thereafter shall be supervised in strict accordance with the approved details.

Reason: Required prior to the commencement of development in order that the Department may be satisfied that the trees to be retained will not be damaged during development works and to ensure that, as far as is possible, the work is carried out in accordance with the approved details.

o The standard tree condition should be applied - any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Thereafter, all soft and hard landscape works shall be permanently retained in accordance with the approved details.

We would finish by noting that in December 2022, members of Tynwald unanimously voted in agreement with the following motion:

That Tynwald acknowledges the global biodiversity and ecological crisis and recommits its support of the Island's 2015 Biodiversity Strategy, which aims to:

- o manage biodiversity changes to minimise loss of species and habitats;
- o maintain, restore and enhance native biodiversity; and
- o involve society in understanding, appreciating and safeguarding biodiversity.

The presentation of this application appears inconsistent with both established Planning Policy and the recent statements by Tynwald in relation to how the Island should be managing and protecting its biodiversity. It's up to us as Officers to ensure that the interpretation and balance of our policies and legislation is fully considered and reflects the will of Tynwald and the people of the Isle of Man.

DEFA Arboricultural Officer - Forestry, Amenity and Lands Directorate (17/1/24) - Comments:

The DEFA Arboricultural Officer raises an objection to the proposed development, on the grounds that:

The proposals involve the removal of multiple tree groups including 14 category C groups 2 large category B groups and the removal of 1 category A group. In total this results in a canopy cove loss of 13,772m².

In making Additional Comments, the Arboricultural Officer advises:

- o The proposal includes the removal of 1 Category A group (286m²) and the removal of 2 large category B groups (5574m²).
- o It is noted due to ash dieback, the site will naturally reduce its over all canopy cover.
- o The proposal includes a landscape plan which includes approximate location/numbers for replacement trees. Although there would be a net canopy loss in the short term, the mitigation planting would, if properly maintained, would likely equal the current canopy cover.
- o A tree protection plan, arboricultural method statement and arboricultural monitoring schedule, could be requested as a pre commencement condition.
- o The proposal shows the properties sited away from some of the large tree groups that could cause future conflicts to the potential residents.

o

In the event that the application is approved, the Arboricultural Officer advises that the following condition be added to any permission that may be granted:

"Prior to the commencement of the development hereby approved a tree protection scheme, arboricultural method statement and an arboricultural monitoring schedule shall be submitted to and approved in writing by the Department. Tree protection measures shall be shown on a layout plan accompanied by descriptive text which includes but is not limited to details of:

- a) The location of the trees to be retained and their canopy spreads;
- b) The location of a 'construction exclusion zone'
- c) The position of protective fencing and/or other protective measures required to prevent damage to retained trees.
- d) An appropriate specification for the protective measures proposed.
- e) A schedule of arboricultural monitoring.

The development must be carried out in accordance with the approved details. No alterations or variations to the approved tree protection scheme or working methods shall be made without prior written consent of the Department.

Reason: required prior to commencement to ensure that all trees to be retained are adequately protected from damage to health and stability throughout the construction period to protect and enhance the appearance and character of the site and locality."

DEFA Inland Fisheries (15/1/2024) comments as follows:

"Although this response may be too late, I can advise that the two options on preliminary surface water drainage assessment has been reviewed.

We have doubts about the ability of these systems coping with a 1:50 year flood event, which would pose a risk to the nearby fishery environment.

Due to tidal range and groundwater levels, the performance of SuDS towards the dilution of pollutants is likely to become compromised. This is evident within the drainage report as storage is described as complex and must take into account rainfall and tidal events making this impossible to predict without models being carried out.

As such, DEFA Fisheries object to this proposal until modelling can provide clear results demonstrating no risk to the fishery environment, including from sediment loading."

DoI Flood Risk Management Division (FMD) 1/2/2024 - Comments: Oppose

"Suggested conditions:

1. The detailed surface water drainage with calculations must be provided showing the position of attenuation tanks/ponds behind the spine road and not within the flood area. The surface water system is to be design to not surcharge in a 1 in 50 year event and the storage must be for a 1 in 100 plus climate change event. This information to be provide and approved prior commencement on site.
2. Details of the flood embankment to be provided prior to starting on site to be design to current industry standards and best practice.
3. Culvert design under the flood embankment to be designed to CIRIA guide C786 (Culvert Screen and Outfall Manual). This is subject to consent under the Flood Risk Management Act 2013, section 20.
4. The detailed application for phase 2 must include a flood risk assessment that shows rate of flood water rise both tidal and fluvial, flood water velocity and depth. This area contains children's play areas, light industrial units, pub/community area it must be demonstration how in time of flood especial fluvial where there is no flood warning how people will evacuate.

Please note that the content of this memo has been completed by Officers from DOI Flood Risk Management in relation to the detailed planning application for the benefit of Officers of DEFA P&BC

Detailed comments

1. The flood management division objects to the proposed development on this site because development should not continue to be allowed on green field sites in areas of known flood risk. There should be no residential development on this greenfield site as the site is largely in a high risk flood zone (fluvial and tidal) no development other than water compatible should take place in this area.
2. The building on green field sites which flood or potential could flood is leaving a legacy for future generations to deal with. Defences can be constructed to standards set out and freeboard added however these will be overtopped at some point. This will mean more property and more lives at risk. For example Brechin in Scotland had new flood defence constructed in 2016 to a 1 in 200 fluvial standard these were breached in October 2023 when Storm Babet hit.
3. This site was originally zoned in 1980's policy and opinion in other jurisdictions has moved on. English planning policy in the National Planning Policy Framework advises development should be directed away from areas at greatest risk of flooding. This is same in other jurisdictions and is the position the Island is looking to move towards with policy and strategy documents currently being developed. The proposed development goes against the policy position of the leading independent chartered professional body for water and environmental professionals. The Chartered Institute of Water and Environmental Management policy position statement states "stronger policies are need to avoid new development in places that are currently or will become at high risk of flooding or coastal erosion" The Flood Planning Strategy and policy being developed for the Island will seek to follow this guidance to prevent flooding on greenfield land in flood zone or area that will become flood zones.
4. There are two culverts that will pass through the embankment. There is a no information on the culverts which should include detailed drawings showing long section, cross section, inlet and outlet details, etc . The culvert needs to be designed to CIRIA guide C786 (Culvert Screen and Outfall Manual). There are no flow calculations to support the application and demonstrate the capacity of the culvert. Generally we would ask to demonstrate the culvert

can pass the 1 in 100 plus Climate change flow there must also be blockage scenarios and measures put in place encase of blockage.

5. The flood embankment will be critical infrastructure there has been no ground investigation and no design only trial pits undertaken in August 2021. What standard will the flood embankment be designed too, who will own the embankment and what will be the maintenance regime?

6. The drainage in the spine road is proposed to be laid under permeable paving and the invert level of the drainage system is 5.1mD02 (Page 17 of The HR Wallingford, Sulby Riverside Development Preliminary drainage assessment). This is 0.9m below the high tide level that has been provided how will the water be prevented from passing through the spine road into the site?

7. Appendix 4 of the Isle of Man Strategic Plan 2016 sets out the requirements for the flood risk assessment. Under other information (c) (snip below) it states the hydraulics of any drain or sewers existing or proposed on the site (during a flood event). This information has not been supplied and therefore the flood risk assessment is not complete. It is a great concern what will happen during a flood event with the surface water (sewers and watercourse) as the properties could be flooded from surface water which is tide locked during a flood event.

(f) A cross-section of the site indicating finished floor levels or road levels or other relevant levels relative to the source of flooding and to anticipated water levels and associated probabilities. Other information A.4.4 The following additional information may also be required:

(a) The probabilities and any observed trends and the extent and depth of floods for the location and, if appropriate, routes and speed of water flow. The effect of climate change on such probabilities should be examined.

(b) The likely rate or speed with which flooding might occur, the order in which various parts of the location or site might flood, the likely duration of flood events and the economic, social and environmental consequences of flooding.

(c) The hydraulics of any drain or sewers existing or proposed on the site (during flood events).

(d) An estimate of the volume of water which would be displaced from the site for various flood level following development of the site.

(e) The potential impact of any displaced water on neighbouring or other locations which might be affected subsequent to development.

(f) The potential impact of any development on fluvial or coastal morphology and the likely longer-term stability and sustainability.

Mitigation Measures

A.4.5 Details of flood defence arrangements proposed must be provided and also an assessment of their behaviour in extreme events.

A.4.5.1 Any work on a watercourse, stream or a designated main river (and normally including the banks for a distance of 9m either side) requires the permission of the Department of Transport's Land Drainage Engineer in accordance with the Land Drainage Acts 1934.

8. The HR Wallingford, Sulby Riverside Development Preliminary drainage assessment does not use the Isle of Man standards for drainage design. In Manx sewers for adoption the

sewers must be self-cleansing and must not surcharge for a 1 in 50 year event. The storage during a flood event should have the capacity for a 1 in 100 plus climate change event.

9. I have been in contact with the emergency services with regard to access during a flood event and have stated the depth of water could be up to 1 metre deep. The flood risk assessment should provide information on depth and velocity of flood water as this will also affect access in emergency situations.

a) The police state that "From a police perspective I can confirm we would have no ability to access in a flooding event through water - our vehicles being 'standard' and as such would be unable to pass water. In respect of the secondary entrance through a cycle path this would need to be looked at in more detail prior to being able to confirm"

b) The Fire and rescue service have said that a standard fire appliance would not have the ability to travel through flood waters of up to 1m in height.

c) The Ambulance service stated "From the ambulance side we wouldn't enter flood water due to the risks we can't see underneath. But if they did it would only be to the height of the sills of the vehicles which is less than 1ft of water "

The Emergency Services asked for more information on the cycle route to check suitability and if there would be chance to comment further on the application."

DoI Public Estates and Housing Division (1/2/2024) - Comments:

"Bearing in mind that both Phases fall within this application, then we would like to see a commitment for 25% in Phase 2 and that would temper the loss of a large proportion of AHU's in Phase 1 due to the viability issue. We would like to see 37 units overall, or more if possible, which would equate to 18% AHU delivery across phases 1 and 2."

THIRD PARTY REPRESENTATIONS

At the revised report drafting stage, further neighbour representations (which are précised below) were received from the occupants of:

47 Lezayre Park, Ramsey, (received 17/1/2024) pointing out that they have walked the site area daily on the 3 rather cold days preceding the Committee Site Visit. There are several species of plants already starting to bloom again and birds are now starting to become more active; and, that there is a stream running down this area which I had never seen before. This is on the nature reserve side hidden by grass and branches.

River House, Riverside, Ramsey (12/1/2024 received 17/1/2024) pointing out that:

- o The land designation on which the PH/CF is proposed to be sited lies in an area of Public Open Space which lies outside the land allocation area shown in the Ramsey Local Plan;

- o There is no justification for such a departure from the Development Plan discussed in the Officer's Report. This is contrary to Business Policy 5 and Recreation Policy 2 in the Strategic Plan;

- o There is no assessment in the officer's report on the amount of the different types of Public Open Space which is required by the development and how much is being provided on site and if there is any shortfall, how this will be provided.

- o Despite having originally been recommended for IPS, the officer stated at the meeting of 15th January, 2024 that he had changed his mind, having considered the provisions of the Department's Operational Policy and now recommends that none of the private individuals

who submitted views should be entitled to it as none is within 20m of the site. We consider it unreasonable that people living close to the site but not within 20m should not be afforded IPS for a development of such significance and which is not in accordance with the development plan.

- o There is no reference to any specific assessment of EP 24 in the officer's report although it is referred to.
- o The site falls outside the settlement boundary on the draft Area Plan for the North and West;
- o There is inaccuracy in Drawings listed in proposed conditions 1 and 5;
- o The matters required by proposed condition 6 should have been provided prior to any decision being taken.
- o The information required by proposed condition 7 should be provided prior to the taking of any decision.

Watersmeet, Westfield Drive, Ramsey (20/1/2024)

I believe

1. It will have adverse effects on the wildlife of the Nature Reserve
2. It will create noise pollution for current residents and visitors to the Nature Reserve
3. It will ruin a beautiful green field site which so many residents enjoy
4. It will affect the already high water levels experienced by current properties on the waterfront
5. It will affect our riverside supporting wall and in turn our land
6. It will devalue our property, which has been on the market for a couple of years now and is not selling because buyers are concerned about the said development
7. The pub would take business away from already struggling public houses in the town
8. It will create further road congestion in an area of town that already struggles with congestion due to new estates on Gardeners Lane and the 3 schools.

Pooildhooie Limited, a company in the Dandara Group, is the owner of land which directly adjoins the site of the above planning application. (22/1/2024)

- o Our objection satisfies the relevant provisions of the DEFA Operational Policy in respect of Interested Person Status and accordingly we wish to be afforded IPS.
- o The development as proposed will have an unacceptable adverse impact upon our land because the dwellings proposed at the north west boundary of the application site are immediately adjacent to our land, which is allocated for residential development but is yet to be developed (see approved application PA 03/00790/B). The dwellings as now proposed are positioned too close to the site boundary, resulting in back gardens with a depth of as little as 6 metres. This is contrary to the Residential Design Guide's general requirement for a minimum of 20 metres between habitable rooms which face one another. This will prejudice the development of Pooildhooie Limited's site.
- o Our land (PA 03/00790/B) is allocated for residential development in the Ramsey Local Plan (and the emerging APNW) and benefits from an extant planning approval for roads, plots, drainage and the flood defence bund, but there is currently no certainty over when the site might be developed and therefore when the flood defence bund might be put in place.
- o The scheme proposes to develop new dwellings on land which is zoned for Light Industrial use. Strategic Policy 7 of the IoMSP;
- o The proposal is therefore contrary to SP7 and BP5 in the IoMSP;

- o The application fails to demonstrate how there is a need for housing in the North which is sufficient to outweigh the objectives of SP7 and BP5;
- o The application also proposes to locate a public house within an area which is designated as Public Open Space contrary to Recreation Policy 2 of the IoMSP;
- o The application includes a Feasibility Report which concludes that it is not viable to provide affordable housing. We do not wish to comment upon the detail of the report at this stage, but would point out that the applicant would be aware of the construction and infrastructure needs of the site when purchasing the land. We note that the Dandara scheme in Ballasalla has been referenced by other parties; that development includes a multi-million pound by-pass road with raised embankments, a bridge over the railway line and a large roundabout as well as affordable housing on-site and a financial contribution of over £1 million in lieu of affordable housing;

West View, Westfield Drive, Ramsey (23/1/2024)

1. In neither the RLP or the WRDF, is field 131273, where the new Public House is proposed to be sited, part of land zoned for development of any type. It is clear it is to be retained as public open space.
2. Part of the proposed residential development is on land zoned for light industrial use according to the RLP and the WRDF. Surely if land is zoned for a specific purpose it should not be used for another?
3. The issue of affordable housing has not been given appropriate weight. The Chief Minister advised Manx Radio that affordable housing was a priority for his administration given the current housing crisis on the Island. To allow the Developer not to build the requisite number of affordable homes in phase one, on the purported promise of doing something in phase two (which may never happen), gives the wrong impression, given the Islands, and particularly Ramsey's needs for more affordable housing now.
4. We still have concerns that any development may affect the flow of the Sulby river and the possible risk of damage to the riverbanks, gabions and garden walls on the opposite side. These issues previously raised have not been dealt with effectively, and if damage occurs to our property, who is liable, the Developer, the Government, or us?
5. The issues about wildlife, biodiversity and nature have been well argued by others including Manx Wildlife Trust, however we would like to reiterate our strong feelings about the potential risk to flora and fauna on the development site. We are a UN Biosphere after all.
6. Whilst the planning officer gives no weight to the DAPNW, as it is not a publically agreed document it obviously outlined the direction of travel and the thinking of those responsible for it two years ago. That document showed that the area in question should remain as a public open space. The fact that it has not been ratified by now is in our opinion just a snapshot of the malaise within Government in general.

Pine View, Westfield Drive, Ramsey (24/1/2024)

I live opposite to Poylldooey and see the tide movement everyday. It seems amazing to me that anyone would even think of building on those fields as there are increasing risks of flooding. We have had be very high rainfall this winter and as the largest river on the Island, inevitably the Sulby River will carry even more water. These weather patterns are predicted

to increase the temperature in the NW of Great Britain so it will only get worse with even greater flooding.

It is also amazing that permission to build is even considered so close to the nature reserve ASSI. There are few enough of these on the Island, which boasts a commitment to UNESCO Biosphere on the Isle of Man. I beg you to refuse the permission to build on these fields, which would lead to more people, bikes, dogs etc. disturbing the natural wildlife.

Port Natal, Riverside, Ramsey (28/1/2024)

The application will cause the loss or irreversible harm to priority habitats such as the saltmarsh and tree cover and result in the loss of protected and rare species that inhabit this.

Public Open Space.

Loss of significant social benefits of walking on a daily basis around this rare island habitat with its staggering biodiversity on display in this vital green space so close to an urban setting.

The proposed development will likely cause harm to the Manx Marine Nature Reserve during construction and forevermore following completion.

The application has been evaluated by the many professional consultees to the Planning Department on multiple occasions and found to be an unsustainable development contrary to the Strategic Plan.

The development will cause irreparable damage to one of the islands most important areas for biodiversity and therefore contrary to the aims of the Isle of Man 2015 Biodiversity Strategy?

The loss or damage of the saltmarsh would be in direct contravention of the Isle of Man Climate Change Action Plan 2022-23 which identifies the Saltmarsh as a priority carbon sequestering habitat.

The potential flooding issues that will be created by constructing the development with its many hard, impervious surfaces and the increased run-off that will no doubt be caused to the intertidal area and flood plain. No reassurances can be given by the developer that the overburdening of the floodplain with run-off will not cause future flooding of long established residential areas next to the river and harbour area.

This unique area should be given the utmost protection for the natural flood defence that it provides rather than causing its loss or irreparable harm.

Would any insurance underwriter be willing to provide protection for the new homes and businesses proposed when existing ones are either not able to get cover or it has become so cost prohibitive that it makes such cover unviable?

While this may not be a planning reason for objection, it is a very real reason that will be left for the existing residents of Ramsey, if the development is granted consent and therefore should form part of any deliberation over the proposal.

The proposed development with its increase in traffic and movement of people will spoil the quiet enjoyment of my property and no substantive mitigation can be provided to alter this fact.

The beautiful verdant outlook enjoyed from this property will also largely be destroyed, further exacerbating the adverse impact upon me as a direct neighbour and the unique character of the area.

The proposal to construct a public house in close proximity to my house would also have a lasting detrimental impact to the quiet enjoyment of my property.

There is quite clearly no need for such an establishment given the number of boarded up and derelict public houses presently in Ramsey.

The full contents of the representations received are available to view on the DEFA Planning website PA 22/00679/B. Any further representation received will be reported.

The following Sections of the Report have not changed from that Reported at the 15/1/24 Meeting. They are:

- 1.00 THE SITE
- 2.00 THE APPLICATION
- 3.00 PLANNING POLICIES
- 4.00 PLANNING HISTORY
- 5.00 REPRESENTATIONS - FROM STATUTORY CONSULTEES
- 6.00 REPRESENTATIONS FROM THIRD PARTIES (NEIGHBOURS)

THIS APPLICATION IS REFERRED TO THE PLANNING COMMITTEE AS THE APPROVAL IS SUBJECT TO A LEGAL AGREEMENT IN RESPECT OF THE AFFORDABLE HOUSING AND DUE TO THE OBJECTIONS TO THE APPLICATION INCLUDING THAT FROM THE LOCAL AUTHORITY

0.0 PREAMBLE

0.1 This application was considered by the Committee on 15th January 2024 and deferred for a site visit.

0.2 The Site visit was carried out on Thursday 18th January 2024.

0.3 During the site visit the location of the site's principal access for the Spine Road onto Poyll Dooley Road to the east; and, Audlyn Walk to the west were viewed by Members. Members toured the site and parts of the surrounding area viewing it from:

- Poyll Dooley Road zebra crossing;
- The public footpath/cycleway running along the sites southern boundary (old railway line);
- The west side of the site adjoining dwellings in Audlyn Walk;
- The road access into the eastern part of the site from Audlyn Walk;
- The White bridge (footbridge) across the Sulby River and the northern river bank immediately adjacent to it;
- From Poyll Dooley Nature Reserve and car park;
- From the public footpath network immediately adjacent to Poyll Dooley House and Barn;
- Poyll Dooley House and Barn - in relation to the 6 units in Phase 1 to be sited to the north of the Spine Road and adjoining the sites western boundary in this particular area;
- View south across the site towards the industrial units of the main part of the Phase 1 area from the footpath approx. 60.0m to the east of Poyll Dooley House's eastern access;
- The retained pond located off site to the north of the site boundary;

- The area of land on which the proposed PH/CF is to be sited (Phase 2 - Outline element), and from which the upper floor of the west elevation of River House, Riverside, was visible;
- The historic ferry crossing inlet and foreshore immediately to the north of the Sulby River comprising the area of protected saltmarsh habitat, located opposite River House on the west bank of the Sulby River in this particular location;
- View of the western part of the site and Sulby River from the southern riverbank; and, the areas of trees to be retained in the north west section of the site between the riverbank and the Spine Road;
- Views to the west of the site from the Sulby Riverside Pumphouse, Poyll Dooey Road;
- The site was also viewed from the grounds of River House, Riverside, Ramsey which is located on the north bank of the Sulby River and to the east of the site of the proposed Public House, with the occupant of River House in attendance;

0.4 During the site visit, Members observed the access points at the eastern and western ends of the proposed Spine Road which had been laid out by the applicant prior to the Site Meeting. Members queried:

- Whether the hedging/bank on the sites southern boundary would be removed or retained;
- The area on site where the division of the full element and outline elements of the application were to occur;
- The approximate position of the Spine Road running across the site and what tree and what areas of trees and shrubs were to be removed as well as those proposed to be retained. Members were assisted with a plan of the site drawn from the submitted Tree Survey on which the DEFA Ecosystems Policy Officer had annotated the various areas of trees and shrubs proposed to be removed; the percentage removal of each such area; areas of trees and shrubs proposed to be retained; and, in cases of partial removal, the respective percentage proportions of removal and retention;
- The approximate position on site of the proposed commercial kiosks located on the north side of the Spine Road approx. 50.0m from the junction of the Spine Road with Poyll Dooey Road;
- The relationship of the site and development proposed thereon with both industrial and residential units on the southern side of the site boundary (old railway line - cycleway/footpath); and, the Dandara Homes development at Audlyn Walk immediately to the west and south-west of the new dwellings and Spine Road proposed for Phase 1 of the development;

0.5 Finally, Members were directed to view the site and the location of the PH/CF from the grounds of River House, Riverside, where the occupant pointed out the position and proximity of River House and the site of the PH/CF. In addition, the occupant pointed out the relative location of the 4-storey residential units, and commercial units, which would be located on the north side of the Spine Road. The occupant expressed concerns regarding the proximity of the PH/CF; the potential for noise and disturbance arising from activities carried on in and around the PH/CF; loss of outlook; and overlooking from the upper floors of the 4-storey housing units facing the site. Concerns were also expressed regarding the loss of trees and shrubs on site and whether the gorse hedge on the opposite riverbank would be retained.

0.6 Subsequent to the Committee Site Visit, the applicant has proposed the following by way of variation to the application:

- o Re-siting of the PH/CF to a position approx. 50.0m to the south of its previous location on land not forming part of any area of POS, and maintaining a line of mature trees to its rear between it and the river bank. The siting of the PH/CF can be covered by a condition.

o The applicant has clarified that the proposals now involve the provision of 5 x 3-bed Affordable Housing Units (not 5 x 2-bed units) as part of Phase 1 (Full element of the application) subject to inclusion in any S13 Agreement. The applicant advises: "Though we appreciate that this is below the 25% requirement, we know that this is the absolute limit we can provide in phase 1."

0.7 The applicant has clarified the following points:

o The Preliminary Drainage Assessment report No. FWM8791-RT002 R01-00 as referred to by DoI Highways Drainage in their consultee response was not originally submitted with the bulk of the application in May 2022, but it was submitted in December 22 and resubmitted in May 23, and forms part of the application.

o Apart from the above document and those already submitted, there are no other flood related documents that form part of the application;

o In response to the latest comments received from the Ecosystems Policy Officer - 22/1/24, the applicant advises that "our comments are being finalised, but the comments are similar to Ms Costain's previous comments so I believe our position is largely the same as previously."

o In terms of open space provision in respect of what is required by Policy and what is proposed to be provided, the applicants advise:

Formal space required	= 8,613m ²	Formal space provided	= 5,798m ²
Children's Play Space required	= 2,871 m ²	Children's Play space provided	= 1,500 m ²
Amenity Space required	= 3,828m ²	Amenity Space provided	= 21,093m ²
Total Space required	= 15,312 m ²	Total Space provided	= 28,391m ²

o With regard to the proposed commercial units, these are annotated on plan as flexible employment space, and amount to a floor-space of approx. 2,580m². The shop kiosks on the north side and fronting onto the Spine Road amount to 56m². The applicant has been advised that 'Commercial' Use is not a formal land-use on the Island. The applicant responded: "These uses will complement the offerings found in Ramsey town centre and will not harm the vitality of the Ramsey town centre. The offering is unlikely to provide a large amount of retail space, as the focus of the non-residential development is focused on uses falling under Part 2 of the Town and Country Planning (Use Classes) Order 2019. However, the kiosks measuring roughly 56m² are not considered to affect the retail provision in Ramsey Town Centre. The provisions non-residential development within this site will provide a 21st century offering of workspace and commercial space with the detailed design forming part of the reserved matters application in future. This has been in the description of development since the start."

0.8 In a letter dated 2/2/2024, the applicant advises of the updates as follows:

" Sulby Riverside - Update to Council

Following the planning committee meeting on the 15th January and the subsequent site visit on the 18th January, we would like to formally submit updates to the proposed development at Sulby Riverside.

The amendments include the following:

- o We will provide five affordable three bedroom houses in phase one
- o We proposed to relocate the public house to the southern portion of the site outside of the designated public open space area as set out in the West Ramsey Development Framework.

We believe that these amendments improve the planning justification for the application and address key concerns which members of the planning committee and members of the public have had regarding the proposal.

We also wish to respond to specific comments raised by various consultees and committee members at this time.

In terms of affordable housing, the phase one elements include 78 new units of which 12 are 1-bedroom apartments.

Under the original submission a viability assessment had been carried out to show that due to the provision of Spine Road in Phase One that the provision of affordable housing in this phase was not deemed viable.

However during the committee meeting on the 15th January it was made clear by members that the provision of affordable housing was an essential need for residents of the north of the island.

As such we have proposed provide 5 affordable homes in phase one. These will be two-bedroom homes being sold at a fixed price of £185,000. (Subsequently clarified by the Case Officer with the applicant that these are 3-bedroom homes).

These will be provided for first time buyers who are on the register.

The total percentage of this is around 6.5% of the total number of homes in phase one being affordable. We have provided an updated viability assessment to prove the impact on viability. The fact is the provision of the public infrastructure in the form of the Spine Road will affect delivery of affordable housing in phase one this position has been agreed with Brett Woods, the head of affordable housing delivery on the Isle of Man.

We would like to remind members that further affordable housing is possible in the later phases of development however these will be subject to their own viability review closer to the time.

We hope that the provision move affordable homes on site alongside the much needed public infrastructure over the Spine Road will be viewed favourably by members.

Public House Relocation

We also have proposed to relocate the pub in the outline portion of the development.

As discussed on site we recognise that the location of the pub is within designated public open space. Though the provision of this community facility is not necessarily inconsistent with the aims of public open space, we respect the concerns of residents and members about the delivery of this in this designated area.

Though the location of the pub is within the outline application where sighting is yet to be fixed, we want members to know that we are committed to having the pub located outside this designated area.

We would happily agree to a planning condition which would ensure that the public open space designation will remain undeveloped as part of this permission.

In terms of road safety concerns were raised at the previous planning committee about whether or not the spine road and the existing estate road at the Dandara scheme would be safe.

Comments provided by the Highways Department show that relevant road safety reviews and road safety audits were carried out by an independent party during the course of the determination on that amendment were made particularly with the western side of the Spine Road where it connects with the existing estate road.

We agreed in March 2023 with Shelia Henley that the proposed development would provide dropped kerbs and tactile paving within the length of full height kerbs, taking care to avoid the hardstanding access and provide tactile paving only on the raised table between Plots 1 and 73 and that the road material between the Dandara Estate Road and the Spine Road wearing courses on the new sections of carriageway have a similar wet skid resistance to ensure that drivers in wet conditions will have the same level of grip.

These recommendations were made by an independent road safety expert and have been incorporated into our design for nearly a year.

Appropriate speed limits speed humps and traffic calming measures have been proposed as well as improved pedestrian crossings and footways to ensure easy access for wheelchair users and those suffering with sight issues is incorporated into the proposed design. The design of the road is also complied with the Manx Road design guidance. This has been confirmed by Richard Webster.

Flooding and Drainage

Concerns regarding the flooding position were raised during the meeting and subsequently from members.

We are clear in the fact that we know the site has flooding issues, and we have hired industry leading experts on this.

There were concerns regarding the bund which Dandara have failed to build, there could be a route for floodwater to enter the west side of the site south of the spine road during the most extreme events (1 in 200 years). A small amount of landscaping along the site boundary would mitigate this impact to our development.

The existing roads to which the Spine Road connects to the west and east of the site already flood. The development provides a level of flood protection that is greater than the level of protection to the east and west.

In terms of surface water drainage, three options were proposed which fit into the wider drainage scheme for the site. They were designed to facilitate adoption by Manx Utilities and DoI Highways.

The next steps should be to reach agreement on the approach and then provide the detailed highway drainage design and calculations that are required. The drainage options should be discussed and the preferred option should be selected including the adoption strategy.

The drainage details and calculations would then be provided. The adoption strategy should take account of the fact that proposed roads serving housing areas are above flood level and existing roads including Poyll Dooey Road are already at risk of flooding.

Furthermore, in terms of foul drainage concerns have been raised specifically regarding adoption and this will be done post permission. We will complete the required Section8 adoption agreements with Manx Utilities upon the granting of planning permission.

To summarise:

Affordable Housing:

- o Proposal: five affordable three-bedroom homes (as confirmed by the applicant 2/2/2024) at £185,000 for first-time buyers.
- o Updated viability assessment provided.
- o We are committed to viability reviews for later phases.

Public House Relocation:

- o Commitment to relocating pub outside designated public open space.

Road Safety:

- o Completed independent road safety reviews and audits.
- o Implemented recommended safety measures in compliance with Manx Road design.

Flooding and Drainage:

- o Engaged industry experts to address flooding.
- o Mitigated flood impact through landscaping.
- o Proposed three drainage options for wider scheme.
- o Intent to finalize drainage details post-agreement.

We appreciate your attention to these updates and remain open to further discussion. Thank you for your consideration."

0.9 As indicated at the beginning of this updated Report, Members considered that that subsequent to the site visit, the following points remained for further consideration:

SUMMARY OF ISSUES

- o Drainage;
- o Highway design, safety and the question of adoption;
- o Affordable Housing provision;
- o The siting of the PH/CF on a recognised area of Public Open Space;
- o The extent of tree and hedgerow removal; and,
- o The impacts on wildlife;
- o Impact on Public Rights of Way;
- o Interested Party Status;

DRAINAGE

0.10 Officers have discussed the application at some length with the representatives of the DoI Flood Risk Management Division (FMD). Subsequent to these discussion, FMD has raised no objection to the proposed development subject to the imposition of conditions as part of any planning permission that may be granted.

0.11 The conditions require:

- o The submission of a detailed surface water drainage scheme with calculations must be provided showing the position of attenuation tanks/ponds behind the spine road and not

within the flood area. The surface water system is to be design to not surcharge in a 1 in 50 year event and the storage must be for a 1 in 100 plus climate change event;

- o Details of the flood embankment to be provided prior to starting on site to be design to current industry standards and best practice.

- o Culvert design under the flood embankment to be designed to CIRIA guide C786 (Culvert Screen and Outfall Manual). This is subject to consent under the Flood Risk Management Act 2013, section 20; and,

- o The detailed application for phase 2 must include a flood risk assessment that shows rate of flood water rise both tidal and fluvial, flood water velocity and depth. This area contains children's play areas, light industrial units, pub/community area it must be demonstration how in time of flood especial fluvial where there is no flood warning how people will evacuate."

Reason: To minimise the potential impact of flooding and flood risk arising from the development both on-site and up and downstream of the site along the Sulby River.

0.12 It is considered that these suggested conditions are acceptable and meet the tests for conditions which are that they should be necessary, relevant to the development, relevant to planning, reasonable, precise, and enforceable. On these grounds it is considered that the proposed development is acceptable and accords with the provisions of Strategic Plan Policies ENV5, ENV10, ENV22 and ENV28.

0.13 The DoI Highways Drainage Team has commented on the proposals and has recommended that: "Due to the lack of surface water drainage details and calculations together with the extent of flooding predicted during extreme tidal events to parts of the estate roads, we recommend that our Highway Asset Management Division do not enter into a Section 4 adoption agreement if the application is approved." This stance is noted.

0.14 The applicant has commented (2/2/24) that:

"The next steps should be to reach agreement on the approach and then provide the detailed highway drainage design and calculations that are required. The drainage options should be discussed and the preferred option should be selected including the adoption strategy.

The drainage details and calculations would then be provided. The adoption strategy should take account of the fact that proposed roads serving housing areas are above flood level and existing roads including Poyll Dooey Road are already at risk of flooding.

Furthermore, in terms of foul drainage concerns have been raised specifically regarding adoption and this will be done post permission. We will complete the required Section8 adoption agreements with Manx Utilities upon the granting of planning permission.

0.15 It is noted that Manx Utilities Authority (MUA) considered that conditions advised by the Case Officer in an email dated 12/1/24 and which read:

Surface water drainage strategy

Prior to the commencement of any works on site, precise details of a finalised surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by DEFA Planning for both the Phase 1 (full element) and Phase 2 (outline element) of the scheme. The surface water

scheme shall be implemented in accordance with the submitted details before the development is used for the first time.

Reason: To prevent increased risk of flooding and to improve and protect water quality and ensure future maintenance of the surface water drainage system and to prevent increased risk of flooding.

Surface water management and maintenance scheme

Prior to the commencement of any works on site, details of maintenance and management of the surface water sustainable drainage scheme have been submitted to and approved in writing by DEFA Planning for both the Phase 1 (full element) and Phase 2 (outline element) of the scheme. Such details shall include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

Reason: To ensure future maintenance of the surface water drainage system and to prevent increased risk of flooding.

Foul water drainage strategy

Prior to the commencement of any works on site, precise details of foul water drainage provision to serve the development, hereby approved, shall be submitted to and approved in writing by DEFA Planning. Such approved drainage scheme shall be installed prior to the development hereby permitted being first occupied and shall thereafter be retained and maintained at all times.

Reason: To ensure that the site is adequately drained and does not increase the risk of flooding elsewhere.

should be applied to any planning permission that may be granted that requires

0.16 MUA advised that from their perspective: "the public adoption of the foul and/or surface water infrastructure will not be considered until we are totally satisfied that the proposals meet with our requirements.

0.17 MUA also advised that: "Both of the conditions below for surface water infrastructure appear fine with me as long as they are can enforceable before development work commences - although the development of a surface water strategy for phases 1 & 2 could be contradicted by the flood risk assessment. What is the situation if the applicant cannot develop such a workable scheme that meets with all MU, FMD & DOI Highways requirements, does this mean the development cannot commence?"

0.18 This is a possibility. However, it may be that the road and drainage system is not adopted, and would remain the responsibility of the developer, and/or any management company that it appointed and to which residents and businesses on the site of their scheme contributed to. The applicant considers that such details can be worked out and is willing to work with MUA and Highways Drainage to resolve such matters.

0.19 There is inevitably some uncertainty when precise drainage details are not offered as part of a scheme , nor would they be expected where part of the application is in outline, with access fixed at this stage (the Spine Road), and all other matters reserved for later consideration. Given that the above surface and foul water strategy conditions are acceptable

to MUA; and, that FMD has withdrawn its objection subject to its recommended conditions being imposed, it is considered that the proposed development is acceptable in land drainage and flood risk terms. On balance, it is considered that the proposed development is acceptable in respect of land drainage.

HIGHWAY DESIGN, SAFETY AND THE QUESTION OF ADOPTION

0.20 The published minutes of the 15/1/24 Planning Committee Meeting, "in response to a question from the Members, the Case Officer confirmed that rescue vehicles should be able to access the area during periods of flooding." Furthermore, "In response to a question from the Members regarding the design of the spine road the DOI Highways representative confirmed that the design was in accordance with Manual for Manx Roads and at this current time they were satisfied with the proposed design but there would be a need for a road safety audit which could lead to amendments if necessary. Members commented that this design element would be better addressed at this stage rather than further design changes later, the Highways representative confirmed that it was not a high risk design likely to be changed significantly."

0.21 No further details have as yet been received in relation to the proposed highway design. The applicant has advised (in the letter dated 2/2/24) "that comments provided by the Highways Department show that relevant road safety reviews and road safety audits were carried out by an independent party during the course of the determination on that amendment were made particularly with the western side of the Spine Road where it connects with the existing estate road."

0.22 The applicant also confirmed that: "We agreed in March 2023 with Shelia Henley that the proposed development would provide dropped kerbs and tactile paving within the length of full height kerbs, taking care to avoid the hardstanding access and provide tactile paving only on the raised table between Plots 1 and 73 and that the road material between the Dandara Estate Road and the Spine Road wearing courses on the new sections of carriageway have a similar wet skid resistance to ensure that drivers in wet conditions will have the same level of grip.

These recommendations were made by an independent road safety expert and have been incorporated into our design for nearly a year.

Appropriate speed limits speed humps and traffic calming measures have been proposed as well as improved pedestrian crossings and footways to ensure easy access for wheelchair users and those suffering with sight issues is incorporated into the proposed design. The design of the road is also complied with the Manx Road design guidance. This has been confirmed by Richard Webster."

0.23 Given the comments made by the Highways Representative made at the Committee Meeting, and the above assertions of the applicant, it is considered that any issues relating to highway design and safety - including pavements, walkways and cycleways - can be resolved at the final design stage. It is noted that the layout of the Spine Road, and roads emanating therefrom are not considered to be not a high risk design that would change significantly from that submitted. It is considered that further details can be agreed by the imposition of a condition(s) as part of any planning permission that may be granted. This accords with the provisions of Policies GEN2; T2, T4, T5, T6 and T8 in the Isle of Man Strategic Plan 2016.

AFFORDABLE HOUSING PROVISION

0.24 The applicant has reconsidered the subject of Affordable Housing (AH) provision in respect of the Full element of the proposals (Phase 1) and has offered to provide 5 x 3-bedroomed AH units on Phase 1. These would be secured via a S13 Agreement. Previously,

the applicant had argued that the provision of any AH Units on Phase 1 would make the development unviable and had submitted an AH Viability Assessment to that effect. Recognising that AH provision is a significant issue, the applicant has decided to offer the above 5 AHU's. An updated AH Viability Assessment is to be provided, and the applicant advises that: "We are committed to viability reviews for later phases."

0.25 In response to this offer, DoI Public Estates and Housing Division (1/2/2024) has commented that they would like to see a commitment for 25% in Phase 2 which would temper the loss of a large proportion of AHU's in Phase 1 due to the viability issue. They further comment: "We would like to see 37 units overall, or more if possible, which would equate to 18% AHU delivery across phases 1 and 2."

0.26 Officers note that the provision of AHU's falls below the Strategic Plan Policy H5 requirement of 25% AHU's provision on developments of 8 units or more. Nevertheless, Officers had previously accepted in their recommendation that the lack of any AHU's on Phase 1 was acceptable given the costs of installing the SR as an up-front requirement to enable the development to occur with the SR being installed in its entirety up to at least base course level as part of Phase 1 of the development. 78 dwellings are proposed in Phase 1 and 25% of that figure would amount to 19.5 AHU's. Whilst the provision of 5 AHU's means a deficit of 14.5AHU's across Phase 1 is not Policy H5 compliant, it is better than the previous position of a complete lack of Phase 1 AHU provision. Officers consider that on balance, an under-provision of AHU's versus achieving the installation of the SR on which the entire development is presaged, is acceptable.

THE SITING OF THE PUBLIC HOUSE/COMMUNITY FACILITY ON A RECOGNISED AREA OF PUBLIC OPEN SPACE

0.27 The siting of the PH/CF on a recognised area of Public Open Space; and, its relationship to the dwelling at River House, Riverside located approx. 70.0m from the PH/CF site on the opposite bank of the Sulby River was discussed at the Member's Site Visit, where Members viewed the proposed site from the land in question itself, from the adjoining bank of the Sulby River; and, from the grounds of River House on the opposite riverbank to the site. Subsequently, Officers have had discussions with the applicant who has revised the location of the PH/CF site to an area on the site, which lies within the site allocation in the Ramsey Local Plan 1998 (See Map No. 2 (South)) in the published Local Plan to a location now shown as being outside the area of POS. It would now be approx. 150.0m from the nearest point with River House.

0.28 It is considered that this re-siting, albeit it is indicative as the PH/CF is located within the Outline (Phase 2) area of the plan, would improve the relationship between River House and the revised PH/CF site in that it would be screened from the Sulby River by a line of mature trees. It is also noted that that occupants of Port Natal, which is located approx. 180.0m from the original PH/CF site on the opposite bank of the Sulby to the south of River House in Riverside, Ramsey, have raised similar concerns regarding the impact of the PH/CF on their outlook, view and residential amenities. The approx. distance between Port Natal and the revised PH/CF site would be 230.0m. It is considered that the relationship of Port Natal with the original site of the PH/CF would also be improved as a result of its re-location. Whilst the relocation would take the PH/CF closer to the new residential properties on the development, it is considered that there would be sufficient distance between any of the dwellings on the site and the PH/CF for the residential amenities of their occupants to be largely unaffected by activities carried on and around the PH/CF.

0.29 It is considered that the site of the re-located PH/CF is, in principle, acceptable. Whilst it would not accord with the provisions of Business Policy 5 in the Strategic Plan, it would accord with General Policy 2, Environment Policies 4 and 5, and Recreation Policy 2, and

would be acceptable in this revised location. The siting of the PH/CF can be controlled by a condition.

THE EXTENT OF TREE AND HEDGEROW REMOVAL AND THE IMPACTS ON WILDLIFE

0.30 As advised previously comments had been received from the Manx Wildlife Trust and from neighbours regarding these impacts objecting to the level of tree and hedgerow removal and the consequent impacts it would have on the character of the site and its relationship to the surrounding area; and, on wildlife. Since the 15/1/2024. Committee Meeting and the subsequent Committee Members Site Visit, further representations have been received from neighbours, the DEFA Arboricultural Officer (AO); and, the Ecosystems Policy Officer.

0.31 Neighbours concerns remain as previously expressed. The AO objects to the proposals on the grounds that it would involve the removal of multiple tree groups including 14 category C groups 2 large category B groups (5574m²), and the removal of 1 Category A group (286m²). In total this results in a canopy cover loss of 13,772m². However, the AO notes that there are exceptional circumstances which mean that this should not result in an objection to the application, and raises no objection to the proposals whilst further noting that due to ash dieback, the site will naturally reduce its over all canopy cover. The AO recommends that a condition requiring a tree protection plan, arboricultural method statement and arboricultural monitoring schedule, should be requested as a pre commencement condition to be attached to any permission that may be granted.

0.32 The Ecosystems Policy Officer (EPO) attended the Members Site Visit and was able to show Members an overlay of the site plans indicating the position on site and % coverage of hedgerow and tree removal that is likely to arise as a result of the proposed development. The EPO points out that the Ecosystems Policy Team's (EPT) objection to these proposals appears to have been missed from the 'Representations Section' of the 15/1/24, Officer Report to Planning Committee. This is correct and apologies are extended by the Case Officer for this error. The EPO points out that although certain limited elements of the EPT's objection are mentioned, this appears to be selective, and is of general concern, as it presents a formal Departmental submission in an inaccurate way. In drafting the original Committee Report the Case Officer took into account the EPT's concerns (along with those of others) at the "IMPACT ON BIODIVERSITY" section of the Report at paragraphs 7.11 - 7.18.

0.33 The EPO's latest comments received on 22/1/2024 are reported in full in this updated Report.

0.34 The EPT raises concerns that:

- o "The project ecological consultants, JBA, has recommended tree retention (which has not been done) and a CEMP, and the applicants are to undertake some replanting and other landscaping, but there are no details in the documentation on the planning portal of what this significant level of ecological mitigation would be or where it is to take place."

- o "the applicants have provided no information about how they are going to mitigate their impacts upon the two red listed plant species of highest conservation concern which are also legally protected via inclusion on Schedule 7 of the Wildlife Act 1990."

- o The EPT had not been consulted on draft conditions, and are taking such an opportunity to do so now;

- o The EPT does not believe that as advised in Section 7.17 of the original Report that "It is considered that on balance, the proposed development is acceptable in terms of its potential for adverse impacts on the existing ecology and habitat of this statutorily unprotected, allocated site", and whether there is there a methodology for determining if and how economic benefits outweigh other issues?

- o The EPT also advises that it "has never indicated a position for no development to take place, or that it would object in order for it to remain as a wild site."

- o "As such, the basis for the objection was not the development in principle, apart from in the areas not zoned for residential development, but rather the specific issues noted in the submission, founded upon a professional assessment of the available information. Specifically;
- o o the lack of appropriate ecological survey;
- o o the largescale removal of habitat;
- o o the impacts on protected and rare species;
- o o the lack of ecological impact avoidance and mitigation;
- o o the potential impact on the saltmarsh o lack of adherence to various policies within the Strategic Plan and the Isle of Man's Biodiversity Strategy.

The report therefore should be updated to accurately reflect the basis and arguments for our object.

0.35 At Section 8.02 the Report advised that: "There is a lot of pressure on environmental grounds from various bodies both within and outside Government for no development to take place and for the site to remain as a 'wild area' which may flood occasionally, and over time, it is likely to increase in its biodiversity offering. It is noted that the site could also be farmed (cattle/sheep grazing) as of now which would diminish its biodiversity value." The EPT point out that "well-managed sheep or cattle grazing regime would be of benefit to parts of this site, so this point appears invalid"; and, that they have never indicated a position for no development to take place. As agriculture is the default land-use on the Island, it should be noted that this also includes ploughing, harrowing; planting and seeding of crops; draining (inserting mole-drains); maintaining ditches and channels, cutting back and removing hedges/hedgerows; removing trees (subject to a felling license being granted where necessary). In such an event, existing habitat on unprotected agricultural land would be lost.

0.36 The EPT With reference to tree removal, the EPT advises that this is a dis-benefit of the scheme, and further comments: "(Section 7.1) within the report, but new landscaping is listed as a benefit, although the level of landscaping, at least in terms of ecology (though arguably not from an amenity perspective), does not mitigate for the loss of the large areas of relatively undisturbed mature/maturing trees and dead wood, which are proven to have much higher ecological benefits than newly planted trees, as well as the removal of scrub, hedges and grassland.

Additionally, with the site plan as presented, and without reduction in the number of properties, there is simply no space on site in which to undertake more mitigation tree planting and habitat creation.

As such, it is not ecologically valid to present new landscaping as a benefit on this basis. Tree removal should also be listed as a dis-benefit within the report, with details of the level of tree removal proposed."

0.37 It is noted that the AO's comments were not received until 17/1/2024. Whilst they may have been sent in 2022, they were not received, and as a result were not recorded. Those that have been received have been noted and reported in full, and it is noted that the AO has in effect, raised no objection subject to a condition as advised in paragraph 0.32 above. It is also noted that the AO considers that: "Although there would be a net canopy loss in the short term, the mitigation planting would, if properly maintained, would likely equal the current canopy cover."

0.38 In all the above, the concerns raised by the EPT, Arboricultural Officer (AO), and earlier those of the Manx Wildlife Trust; the Climate Change Team; and, others, are noted and appreciated. It remains that the site could be grazed, ploughed over or otherwise improved for agricultural practises without recourse to DEFA Planning. The EPT's objection to the proposed development is again, noted and appreciated. Notwithstanding these and their earlier comments, the EPT has recommended a revisions to proposed conditions, plus a

number of further conditions. It has again, emphasised that it has significant concerns with the principle of conditioning ecological surveys rather than obtaining them prior to determination. Nevertheless, the EPT recommends amendments to condition 6 for the Landscape and (Mitigation) Ecology Plan. An additional condition to "secure survey work, and for the outcome of this survey work to inform the Ecology Plan:

Breeding and wintering bird surveys;
Fungi surveys;
Bat roost and activity surveys Invertebrate surveys;
Schedule 7 and rare plant surveys;
Common frog surveys;
Common lizard surveys;
Schedule 8 plant surveys.

All of which need to be undertaken following UK best practise guidelines, in the right seasons and by a suitably qualified ecological consultancy.

0.39 These requirements are covered in the wording of a new condition 8. This would inform the Landscape Ecology Mitigation Plan - LEMP, which is covered in the wording of proposed condition 7. Condition 6 requires that no tree removal, site or vegetation clearance may take place until the ecological surveys requested in Condition 8; and, the mitigation recommendations required by the Landscape and Ecology Mitigation Plan (LEMP) - condition 7 - have been signed off as part of this planning permission.

0.40 The EPT's requirement for a condition to protect the Salt Marsh area to show how and where surface water is to be taken off site, with the proviso that this should not go through the Saltmarsh Area, is rehearsed in condition 11.

0.41 The EPT's advice that a CEMP be conditioned (Construction Environment Management Plan) is noted, however, such conditions are difficult to enforce and it is considered that other conditions as well as existing powers which lie outside planning exist sufficient to ensure that the EPT's requirements are met as far as they reasonably can be. These include the following:

- o Incorporation of Precautionary Working Method Statements for breeding birds, roosting, commuting and feeding bats, protected and rare plants, rare invertebrates, common lizards, common frogs and fungi.
- o Measures to be put in place for the protection of the saltmarsh, Sulby River and the downstream Douglas Bay Marine Nature Reserve - prevention of pollution and sedimentation etc. - this must include phased soil stripping and vegetation clearance, as and when development progresses throughout the site, no wholesale removal.
- o Soft felling methodologies.
- o Construction exclusion areas and use of protective fencing.
- o Low level construction lighting regimes.
- o Responsible avoidance and eradication plans for Schedule 8 plants.

0.42 The requirements of the EPT in respect of the use of integrated bird, bat and bee bricks have been incorporated into condition 25.

0.43 In respect of additional conditions that the EPT advised in relation to:

- o No external lighting shall be installed except in accordance with a detailed external low level lighting scheme in order to safeguard Ecological Species;
- o That tree protection measures (such as those specified by the AO) be required with a detailed schedule of regular reporting to ensure compliance;

o That the standard tree condition be applied requiring any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. With all hard and soft landscaping works thereafter being permanently maintained.

0.44 These have been incorporated into

- o condition 15 - standard tree condition
- o condition 16 requiring a tree protection scheme, arboricultural method statement and an arboricultural monitoring schedule;
- o condition 26 external lighting controls - this would only be applied to any area of new or retained Public Open Space (other than in connection with any area of formal playspace such as the LAP, LEAP or NEAP) otherwise it would preclude street lighting;

0.45 What has not been conditioned is the EPT's request for an Ecological Clerk of Works. This is considered to be unnecessary as there should be sufficient safeguards built into the requirements of the other conditions as mentioned above.

0.46 The EPT has further pointed out that in December, 2022, Tynwald unanimously voted to support the Islands Bio-diversity Strategy. However, it should also be noted that this application proposes development on an allocated site in the 1998 Ramsey Local Plan as advised in the WRDA Development Brief 2004.

0.47 There is clearly a conflict between the development proposed and the biodiversity character and natural balance of the sites flora and fauna. On balance, with regard to the implications that development would have for the biodiversity of the site, it is considered that the conditions proposed in terms of biodiversity, tree retention, landscaping and landscape management of the site as it develops, meet the six tests relating to conditions in that they are reasonable; necessary; relevant to the development proposed; relevant to planning; precise; and, enforceable. It is considered that the development proposed can be accommodated and the impacts of it in respect of biodiversity, can be successfully mitigated against.

PUBLIC RIGHTS OF WAY (PROW)

0.48 The comments received from the PROW Team are noted. There is a process ongoing under S.88 of the Highways Act to confirm established rights of way across the site. The PROW Team advise: "Any member of the public can request a route, if it has had unimpeded access for a period of 21 years, to become dedicated as a public right of way (PROW), and from consulting with past aerial imaging I am satisfied the routes proposed have been used since at least 2001. As a PROW the routes would not be able to be obstructed and a diversion would need to be applied for in conjunction with a planning application in order to have the routes moved."

0.49 The applicant has provided an indicative overlay of the footpath routes that the PROW Team is considering and overlain it onto the Masterplan layout for the development of the site, which indicates that such future footpath routes as those proposed could be accommodated. It is considered that such routes that may be approved by the PROW, subject to the statutory process, can be incorporated into the Masterplan layout and/or any subsequent approved layout for the site.

IPS - INTERESTED PARTY STATUS

0.45 At the 15/1/2024 Planning Committee Meeting, the Case Officer recommended that all those third parties who had written in on then application should be awarded third Interested Person Status (IPS). This was an error. Whilst those who had written in had expressed valid

objections on planning grounds, owing to their location, they did not comply with the requirements of The Operational Policy on Interested Person Status (July 2021). The relevant part of this document reads:

1.0 DEFA OPERATIONAL POLICY - INTERESTED PERSON STATUS

0.51 In relation to the requirements of the document relating to: "Operational Policy on Interested Person Status July 2021", which outlines the criteria identifying Interested Person Status, the document describes Interested Person Status as:

"Interested Person Status will only be afforded to those persons who submit a written representation(s) which complies with ALL the criteria set out below.

A. Representations must clearly identify the land which the person making the representation owns or occupies and which they consider would be impacted on by the proposed development.

B. The land referred to in (A) above must be within 20 metres of the red line boundary of the application site, unless the proposed development exceeds the criteria set out in Appendix 5 of the Strategic Plan (2016) to automatically require an Environmental Impact Assessment. (See Section 4.2 Proximity to the Proposed Development (Criteria B)).

C. Representations must relate to the relevant issues set out below.

C1. For Planning Applications the relevant issues are:

o living conditions (including outlook, privacy, traffic, noise, light, dust and smell);

o land contamination, flood risk, highway safety and/or risk of crime; and/or

o prejudicing the use or development of adjoining land in accordance with the appropriate Area Plan."

"4.2 Proximity to the Proposed Development (Criteria B)

4.2.1 Applications for planning consent must include a site plan which shows the site edged in red (the red line boundary). It is accepted that a smaller development on a larger site may mean the actual works are some distance from neighbouring properties even if the red line boundary is not, and such issues should be considered in the application of Criteria D.

4.2.2 It is accepted that sometimes properties are only separated from the application site by a narrow strip of land, footpath or road. Although not set out in policy, 20 metres is often used as a general guide when assessing the potential for overlooking. The 20 metres referred to in the policy is intended to respond to these two issues. Further away than this it is anticipated that persons, groups or organisations will be deemed to have insufficient interest to be afforded Interested Person Status in relation to most applications.

4.2.3 The Isle of Man Strategic Plan (2016) sets out the circumstances in which an Environmental Impact Assessment is required as part of a planning application (Environment Policy 24 and Appendix 5)."

0.45 In relation to the requirements of an Environmental Impact Assessment (EIA) as submitted with this application, Appendix 5 of the Strategic Plan 2016 reads as follows:

"The Need for EIA

A.5.2 It is proposed that the following types of development would require EIA in every case:

(j) Other projects

o Residential development of more than 30 homes and commercial development of more than 500sq metres outside identified settlements."

0.52 In this case, the site lies, apart from the originally proposed site for the PH/CF - which was to be on land comprising POS outside the allocated land area in the RLP - is to be sited on allocated land contained within the settlement boundary for Ramsey. The indicative site for the PH/CF is now proposed to be sited on land within the allocated land area in the RLP.

0.53 Given the above it is recommended that the owners/occupiers of none of the following properties should be given Interested Person Status as they are considered not to meet the requirement of being located within 20.0m of the site boundary; and, as such do not have sufficient interest in the subject matter of the application to take part in any subsequent proceedings mentioned in Article 4.2:

Watersmeet, Westfield Drive, Ramsey, IM8 3ER
2 Belmont Villas, Jurby Road, Ramsey, IM8 3PF
West View, Westfield Drive, Ramsey, IM8 3ER
Pine View, Westfield Drive, Ramsey, IM8 3ER
River House, Riverside, Ramsey, IM8 3DA
47 Lezayre Park, Ramsey, IM8 2PT
26 Greenlands Avenue, Ramsey, IM8 2PE
6 Dreeym Ollay, Ramsey, IM8 2QA
16 Fairway Drive, Ramsey, IM8 2BB

and do not satisfy all of the requirements of paragraph 2 of the Department's Operational Policy on Interested Person Status (July 2021). The Case Officer apologises to all third parties mistakenly listed previously as having IPS and for any inconvenience this may have caused.

0.54 A representation was received following the Committee Meeting from Pooildhooie Limited, (22/1/2024) a company in the Dandara Group, which is the owner of land which directly adjoins the site of the above planning application. The relationship of the land meets the 20.0m distance requirement outlined in Article 4.2: and Pooildhooie Limited should be granted Interested Person Status.

0.55 The recommendation remains as one of approval in that overall, the application is considered to be acceptable as the benefits offered by the proposed development are considered to outweigh the dis-benefits. The application is recommended for approval subject to the prior signing of a Section 13 Agreement to secure:

In the Full element:

- o The provision of the Spine Road;
- o Off-Site Highway Improvement Works;

Open Space and Estate Management comprising:

- o The provision of the LAP and LEAP with their relevant play equipment;
- o The provision of a commuted sum for the maintenance costs for the LAP and LEAP;

In the outline element:

- o That the Spine Road shall be completed prior to the implementation of the first of any approval of Reserved matters for the development of the outline element of the site;
- o A clause/mechanism to secure the provision of some on-site Affordable Housing;
- o The provision of the Commercial Units
- o The provision of the Public House/Community Facility including picnic area;
- o The provision of the shop/kiosks

Open Space and Estate Management comprising:

- o The provision of the NEAP with its relevant fully equipped play areas/courts/pitches /fencing and associated equipment;
- o Waymarking, signage and landscape interpretation boards along the Sulby Riverfront from the access onto Poyll Dooley Road in the east linking in with the Poyll Dooley Nature Reserve to the west;

And subject to the following conditions, which having been updated in line with the various recommendations in this Report, are outlined in full:

CONDITIONS

1. The development within the land outlined in red on drawing numbers 296-300-101 Rev. C and 296-100-302 Rev. C, hereby permitted, shall be begun before the expiration of four years from the date of this permission.

Reason: To comply with Article 26 of the Town and Country Planning (Development Procedure) Order 2019 and to avoid the accumulation of unimplemented planning approvals.

Spine Road implementation

2. The development of the Spine Road within the land outlined in red on drawing numbers 296-300-101 Rev. C and 296-300-102 Rev. C, hereby permitted, shall be completed up to base course level for the entirety of its length including ironwork, the footways on the highway frontage; visibility splays; and, a site compound and car park have been constructed in accordance with the Construction Environment Management Plan (CEMP) required by Condition No. 11 prior to the first building of any residential units permitted by this planning permission.

Reason: In the interests of the proper development of the application site by providing a road connection between Auldyn Walk and Poyll Dooley Road at the earliest opportunity; and, to act as a flood defence barrier to the development proposed located on the south side of the Spine Road.

Samples and details of materials to be submitted

3. Prior to the commencement of development on Phase 1 of the site area, samples and details of the materials proposed to be used for the main walls and roofs of the dwellings, hereby permitted, shall be submitted to and approved in writing by DEFA Planning. The development shall be carried out in accordance with the approved details. For all other construction materials for the external surfaces of the dwellings such as rendering; window and door frames; guttering and downpipes; the details outlined on the approved drawings for each dwelling type shall be adhered to.

Reason: In the interests of visual amenity and to secure a high quality form of development that would readily assimilate into its surroundings.

No materials to be stored North of the Spine Rd

4. No excavated materials, building materials, plant or machinery associated with the Phase 1 development shall be stored on any part of the site area located to the north of the line of the Spine Road.

Reason: To safeguard components of habitats and wider ecological networks located to the north of the site including areas of salt marsh along the Sulby River; and, to protect priority species.

Submission of Reserved Matters for Phase 2

5. Before any part of the development hereby permitted is begun within the land outlined in red on drawing number 296-100-302 Rev. C, application for approval of the Reserved Matters of the layout, scale and appearance of the buildings and the landscaping of the site shall be made to the Department before the expiration of two years from the date of this approval and thereafter the development shall only be carried out in accordance with the details as approved.

Reason: This part of the application was submitted in outline with access approved and all other matters of layout, scale, appearance and landscaping reserved for future consideration (the Reserved Matters) in accordance with the provisions of Part 3 (1) (2) and (4) of Schedule 1, Part 3 of the Town and Country Planning (Development Procedure) Order 2019, or any Order revoking or re-enacting that Order.

No tree removal or site clearance

6. No tree removal, site or vegetation clearance may take place until the ecological surveys requested in Condition 8 have been submitted to DEFA Planning and approved in writing and the mitigation recommendations signed off as part of the Landscape and Ecology Mitigation Plan (LEMP) required by condition 7 of this planning permission.

Reason: To ensure that adequate time is allowed for the site to be assessed in respect of its ecological, landscape and biodiversity value to be assessed by the ecological surveys required by condition 8 of this planning permission are evaluated and able to inform the preparation of the LEMP required by condition 7 of this planning permission.

Landscape Ecology Mitigation Plan - LEMP

7. Prior to the commencement of development on Phase 1, and to the submission of any Reserved Matters application, a Landscape and Ecology Mitigation Plan (LEMP) shall be submitted to and approved in writing by DEFA Planning. This information shall include:

A. An annotated, visual and ecological constraints and opportunities plan highlighting visually sensitive areas, distinctive trees, hedges, sod banks, buildings, and view corridors out to the surroundings to the north incorporating the Poyll Dooey Nature Reserve up to the Sulby River where it runs to the north and east of the site between the White Bridge and the Spine Road access onto Poyll Dooey Road.

B. An annotated landscape and ecological impacts plan that provides details of the physical impacts of the proposals on the landscape and ecological features detailed in A above; and

C. Avoidance/mitigation/compensation/enhancement measures.

D. Timescale for implementation and ongoing management (minimum 10 years required).

The plan should demonstrate how existing landscape and ecological value is being conserved as far as possible, how impacts have been minimised, and what opportunities for enhancement have been taken; and, include an ecological habitat balance sheet that sets out losses and gains as well as the likely time lag between loss and effective habitat gain. The LEMP shall apply to both the Full and Outline elements of the site (Phases 1 and 2) and any Reserved Matters applications for the site shall incorporate the approved Landscape and Ecology Mitigation Plan (LEMP). The development shall be carried out in accordance with the approved details.

Reason: To identify, map and safeguard components of habitats and wider ecological networks and to protect priority species, and identify and pursue opportunities for securing measurable net gains for biodiversity in accordance with the provisions of General Policy 2, and Environment Policies 1, 3, 4, 5, 7, 13, 22, 24 and 42 in the Isle of Man Strategic Plan 2016.

Surveys required for the LEMP

8. Prior to the commencement of development on Phase 1, and to the submission of any Reserved Matters application, in addition and supplemental to the requirements of condition 6 of this planning permission, the following schedule of survey work shall be carried out and shall inform and be incorporated into the LEMP by way of mitigation as and where necessary. Such survey work shall include:

- Breeding and wintering bird surveys;
- Fungi surveys;
- Bat roost and activity surveys Invertebrate surveys;
- Schedule 7 and rare plant surveys;
- Common frog surveys;
- Common lizard surveys;
- Schedule 8 plant surveys.

All of which need to be undertaken following UK best practise guidelines, in the right seasons and by a suitably qualified ecological consultancy.

Reason: To identify, map and safeguard components of habitats and wider ecological networks and to protect priority species, and identify and pursue opportunities for securing measurable net gains for biodiversity in accordance with the provisions of General Policy 2, and Environment Policies 1, 3, 4, 5, 7, 13, 22, 24 and 42 in the Isle of Man Strategic Plan 2016.

Additional details

9. The detailed drawings required to be submitted by Condition 5 (reserved matters) shall include the following information: boundary treatments, existing and proposed site levels, finished floor levels and materials, details of all public open space and green infrastructure, arboricultural method statement and tree protection plan to BS 2012:5387 to include any engineering details required for no-dig construction and thereafter the development shall only be carried out in accordance with the details as approved.

Reason: To enable DEFA Planning to consider whether adequate provision is being made for the matters referred to in the condition in the interests of visual amenity and to secure a high quality form of development that would readily assimilate into its surroundings.

Strategy to maintain GI and POS

10. Prior to the commencement of any development across the application site (both Phases), for Phase 1 and the first Reserved Matters application to be submitted a strategy for the management and maintenance of all green infrastructure across the application site (including, for the avoidance of doubt, all areas of public open space). The strategy document

shall set out the funding, management, maintenance, access and use arrangements for each area of the site, and a delivery plan identifying a trigger date for the completion of each of the relevant green infrastructure and public open space areas. The Reserved Matters application for the site shall incorporate the approved details and thereafter the development shall only be carried out in accordance with the details as approved.

Reason: To ensure that green infrastructure and public open space is delivered for the amenity of future residents in a timely manner in accordance with the approved Masterplan drawing number 296-300-100 Rev. F for the site.

Protection of Saltmarsh Area

11. As part of any application for Reserved Matters, the applicant shall provide a detailed schedule of all measures to be put in place for the protection of the Saltmarsh Area and the Sulby River. Such details shall include any required drawings to show how and where surface water is to be taken off site. This should not go through the Saltmarsh Area.

Reason: To ensure that adequate provision is made for the protection of the Saltmarsh habitat area on the Sulby River arising from the development. This is due to the Saltmarsh Area being the largest Blue Carbon sequestration site on the Island.

Landscape interpretation

12. The application(s) for Reserved Matters to be submitted shall include details of a package of proposals to enhance public understanding and enjoyment of the areas of public open space to be created throughout the site in relation to the Sulby River and the adjoining Poyll Dooley Nature Reserve and the nearby salt marsh environment. Such proposals shall include interpretation materials. The development shall be carried out in accordance with the approved details.

Reason: To provide public benefits in the form of interpretation and understanding of the site and surroundings with emphasis on the relations of the site to the Sulby Riverside, saltmarsh and Poyll Dooley Nature Reserve.

Street lights, car parks and street names

13. The first occupation of any dwelling in both Phase 1, and as part of any Reserved Matters submission(s) for Phase 2 shall not take place until the following works have been approved in writing by DEFA Planning and constructed and made available for use:

A. The street lighting for the spine road and cul-de-sacs and footpaths has been erected and is operational;

B. The car parking and other vehicle access facilities required for the dwellings by this permission has/have been completed;

C. The verge and service margins and vehicle crossing on the road frontage of any dwelling have been completed with the highway properly defined; and,

D. The street name-plates for the spine road and cul-de-sacs have been provided and erected.

Reason: To ensure that adequate access and associated facilities are available for traffic attracted to the site.

Construction Environment Management Plan

14. No development on any Phase of the Full and Outline elements of this permission shall take place until a Construction Environment Management Plan (CEMP) has been submitted to

and approved in writing by DEFA Planning. The CEMP, which shall apply to the whole of the site, shall include:

- a. The timetable of the works
- b. Details of any road closure;
- c. The compound/location where all building materials, finished or unfinished products, parts, crates, packing materials, and waste will be stored during the demolition and construction phases;
- d. Areas on site where delivery vehicles and construction traffic will unload building materials, finished or unfinished products; parts, crates, packing materials, and waste with confirmation that no construction traffic or delivery vehicles will park on the highway for loading or unloading purposes, unless prior written agreement has been given by DEFA Planning;
- e. The means of enclosure of the site during construction works;
- f. Details of wheel washing facilities and obligations, and measures to be employed to prevent egress of mud, water and other detritus onto the public and any non-adopted highways;
- g. Photographic evidence of the condition of the adjacent public highway prior to commencement of any work;
- h. The steps and procedures to be implemented to minimise the creation of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development to include the recommended mitigation measures identified in Chapter 6 'Noise and Vibration' and Chapter 7 'Air Quality' of the submitted Environmental Statement.
- i. The employment of an Ecological Clerk of Works to ensure that the construction and enabling works outlined in the CEMP is carried out in accordance with the provisions of the LEMP as required by condition 6 of this permission for the period of construction for both Phases 1 and 2.
- j. Incorporation of Precautionary Working Method Statements for breeding birds, roosting, commuting and feeding bats, protected and rare plants, rare invertebrates, common lizards, common frogs and fungi.
- k. Measures to be put in place for the protection of the saltmarsh, Sulby River and the downstream Douglas Bay Marine Nature Reserve - prevention of pollution and sedimentation etc. - this must include phased soil stripping and vegetation clearance, as and when development progresses throughout the site, no wholesale removal.
- l. Soft felling methodologies.
- m. Construction exclusion areas and use of protective fencing.
- n. Low level construction lighting regimes.
- o. Responsible avoidance and eradication plans for Schedule 8 plants.
- q. Details of compliance monitoring including who will be undertaking monitoring for compliance with the CEMP, how often inspections will take place, who they will report to, who will be responsible for undertaking corrective action and how soon after non-compliance is found will corrective action be taken.

All construction works shall be carried out in accordance with the approved CEMP.

Reason: To minimise the impact on the highway network, nearby residential properties, the Sulby Riverside environment; the Poyll Dooey Nature Reserve; and, to ensure that the requirements of the LEMP accord with the implementation of the CEMP.

Remove PD for Construction compounds

15. Notwithstanding the provisions of Schedule 1, Class A, of the Town and Country Planning (Permitted Development) (Temporary Use or Development) Order 2015, the provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or

over that land or on land adjoining that land where planning approval has previously been granted following an application, is expressly prohibited by this condition.

Reason: The erection of any such building or creation of a compound for the storage of plant, machinery, construction materials etc. shall be carried out in accordance with the provisions of Conditions 2; and, 11, parts d, e, and f, of this permission owing to the ecologically sensitive nature of the site and surroundings.

Replacement trees and plants

16. No retained tree, hedge or bank shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars. In the event that retained trees become damaged or otherwise defective during the construction phase due to events outside of the applicant's control the Department shall be notified as soon as reasonably practicable and remedial action agreed and implemented.

Reason: To ensure that trees marked for retention are not removed, in the interests maintaining the amenities of the area and to ensure the visual impact of the development is mitigated.

Arboricultural method statement and an arboricultural monitoring schedule

17. Prior to the commencement of the development hereby approved a tree protection scheme, arboricultural method statement and an arboricultural monitoring schedule shall be submitted to and approved in writing by the Department. Tree protection measures shall be shown on a layout plan accompanied by descriptive text which includes but is not limited to details of:

- a) The location of the trees to be retained and their canopy spreads;
- b) The location of a 'construction exclusion zone'
- c) The position of protective fencing and/or other protective measures required to prevent damage to retained trees.
- d) An appropriate specification for the protective measures proposed.
- e) A schedule of arboricultural monitoring.

The development must be carried out in accordance with the approved details. No alterations or variations to the approved tree protection scheme or working methods shall be made without prior written consent of the Department.

Reason: required prior to commencement to ensure that all trees to be retained are adequately protected from damage to health and stability throughout the construction period to protect and enhance the appearance and character of the site and locality.

Replace plants - standard 5 year condition

18. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Thereafter, all soft and hard landscape works shall be permanently retained in accordance with the approved details.

Reason: In the interests of visual amenity and to secure a high quality form of development that would readily assimilate into its surroundings.

Surface water drainage strategy

19. Prior to the commencement of any works on site, precise details of a finalised surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by DEFA Planning for both the Phase 1 (full element) and Phase 2 (outline element) of the scheme. The detailed surface water drainage scheme with calculations must be provided showing the position of attenuation tanks/ponds behind the spine road and not within the flood area. The surface water system is to be designed to not surcharge in a 1 in 50 year event and the storage must be for a 1 in 100 year plus climate change event.

The surface water scheme shall be implemented in accordance with the submitted details before the development is used for the first time.

Reason: To prevent increased risk of flooding and to improve and protect water quality and ensure future maintenance of the surface water drainage system and to prevent increased risk of flooding.

Surface water management and maintenance scheme

20. Prior to the commencement of any works on site, details of maintenance and management of the surface water sustainable drainage scheme have been submitted to and approved in writing by DEFA Planning for both the Phase 1 (full element) and Phase 2 (outline element) of the scheme. Such details shall include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

Reason: To ensure future maintenance of the surface water drainage system and to prevent increased risk of flooding.

Foul water drainage strategy

21. Prior to the commencement of any works on site, precise details of foul water drainage provision to serve the development, hereby approved, shall be submitted to and approved in writing by DEFA Planning. Such approved drainage scheme shall be installed prior to the development hereby permitted being first occupied and shall thereafter be retained and maintained at all times.

Reason: To ensure that the site is adequately drained and does not increase the risk of flooding elsewhere.

Details of the flood embankment

22. Details of the flood embankment to be provided prior to starting on site to be design to current industry standards and best practice.

Reason: To minimise the potential impact of flooding and flood risk arising from the development both on-site and up and downstream of the site along the Sulby River.

Culvert design

23. The Culvert design under the flood embankment shall be designed to CIRIA guide C786 (Culvert Screen and Outfall Manual). This is subject to consent under the Flood Risk Management Act 2013, section 20.

Reason: To minimise the potential impact of flooding and flood risk arising from the development both on-site and up and downstream of the site along the Sulby River.

Phase 2 FRA

24. The detailed application for phase 2 must include a flood risk assessment that shows rate of flood water rise both tidal and fluvial, flood water velocity and depth. This area contains children's play areas, light industrial units, pub/community area and it must be demonstrated how in time of flood, especially a fluvial flood, where there is no flood warning how people will be evacuated.

Reason: To ensure that the site is adequately drained and that the area can be evacuated safely before and during a flood.

Exclude siting of the Public House/Community Facility

25. The siting of the Public House/Community Facility as shown on drawing number 296-300-100 Rev. F - Masterplan for the site (stamped received and dated 20 March, 2023) is specifically excluded from this planning permission. The proposed siting of the Public House/Community Facility shall be submitted as part of an application(s) for Reserved Matters following agreement on its siting with DEFA Planning prior to submission.

Reason: In the interests of protecting neighbours residential amenities from visual intrusion and noise and light pollution arising from the operation of the facility.

Bat, bird and bee bricks

26. Prior to the occupation of any dwellings, details of the addition of bat, bird and bee bricks to be installed as part of the development shall be submitted to and approved in writing by DEFA Planning prior to works commencing and the that development then carried out in accordance with these details. Thereafter, these features shall be permanently retained and maintained. Details should include the number, type and location of the bricks. Bat bricks should include types suitable for cavity and crevice dwelling species and in locations which facilitate the lifecycle of bats (locations to facilitate breeding and hibernating). Bird bricks should include types suitable for swift and house martin.

Reason: To ensure that the development has an acceptable impact on the environment.

No external lighting to be installed without permission

27. No external lighting shall be installed except in accordance with a detailed external low level lighting scheme which complies with the recommendations outlined in the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (2023), which has been submitted to and approved in writing by the Planning Department.

Reason: To provide adequate safeguards for the ecological species existing on the site. (See Manx Bat Group Bat Activity Survey).

Highway layout and design

28. In respect of the highways layout, and design details, the development, hereby approved, shall be carried out in accordance with:

- a) Access and layout to accord with 296-300-100 rev F, 101 rev c and 102 rev, Tetra Tech Drawing Site Access Option 2: Ghost Island General Arrangement and Visibility Splays 002 Rev P02.
- b) Bike and bin stores to accord with drawing for all dwelling house types.
- c) Travel Plan not part of the development hereby approved shall be occupied prior to the implementation of the Tetra Tech Travel Plan 784-B030691 rev 03 May 2022 or those parts capable of being implemented prior to occupation and thereafter implemented to

timetable contained therein and shall continue to be implemented for five years / as long as any part of the development is occupied.

Reason: In the interests of highway safety.

ORIGINAL OFFICER REPORT AS PRESENTED TO THE MEETING OF THE PLANNING COMMITTEE ON 15/1/2024 (see Agenda Item 5.1)

1.00 THE SITE

1.1 The application site comprises an area of approx. 8.55 ha of agricultural land interspersed with wooded areas, sod banks, hedgerows, a pond and grassland and is located to the south and west of the Sulby River where the river in running to the east curves in an arc northwards away from the site. The site is bounded to the south by the former Ramsey - Peel railway line, now a footpath/cycleway which bounds an area to the south of industrial units and some housing at Greenlands Avenue. To the north east is Poyll Dooey House and Barn, whilst to the north between the site and the Sulby River is the non-statutory designated Poyll Dooey Nature Reserve. The land to the west of the site comprises the recently built Auldyn Meadow Housing development (Dandara Homes) where there is road access provision made up to the sites western boundary. Footpath access along the river frontage and to the footpath cycleway is derived from Poyll Dooey Road to the west, where there is a pedestrian crossing across the road. The western edge of the site lies within 500m of Ramsey Town Centre and the harbour side. A Public Right of Way runs across the site.

2.00 THE APPLICATION

2.1 The hybrid application (part full/part outline) seeks permission for the following: Combined approval in principle and full approval for a residential development seeking planning permission for the erection of 66 dwellinghouses and 12 flats, site access, Spine Road through the site, drainage, car parking and associated landscaping (Phase 1). Outline Planning permission for development of up to 127 new residential units in the form of dwellinghouses and flats, flexible commercial space, a new public house and new retail space with all matters reserved save for access

2.2 The site area comprises: "Land at Poylldooey, Fields And Part Fields 134271, 134253, 134270, 134272, 131273, 131276, 132274 & 134274, Ramsey, Isle Of Man".

2.3 The application is accompanied by full plans for the 'full' element of the application, a Masterplan (covering both the full and outline elements), and a range of documents indicating how the site is proposed to be developed. These documents also include an Environmental Impact Assessment which introduces the development proposals and addresses:

- o Alternatives and Design Evolution;
- o Methodology and Approach of the EIA;
- o Transport;
- o Noise and Vibration;
- o Air Quality;
- o Flood Risk;
- o Water Resources and Water Quality;
- o Socio-Economic Issues;
- o Greenhouse Gas Emissions;
- o Cumulative and Interactive Effects; and,
- o Residuals effects and Conclusions;

2.4 Other submitted documents include a Flood Risk Assessment and Management Plan containing proposed mitigation measures; and, Biodiversity and Protected Species Surveys comprising a preliminary Field Ecological Assessment; Bat Activity Survey; Greenhouse Gas

Calculation; and Climate Change Resilience Risk Assessment. These details and documents propose mitigation measures including provisions for further survey work to inform the Reserved Matters stages of the outline element of the application.

3.00 PLANNING POLICIES

3.1 The site, as part of larger area, was first allocated for mixed use development in the Ramsey Local Plan 1982. In the Ramsey Local Plan (RLP) 1998, it was allocated for a mixture of light industrial development (mostly the eastern part) and residential on the western part of the application site and the site immediately to the west built on by Dandara at Auldyn Meadows. The site to the north of Auldyn Meadows, and west of the application site was consented for residential development on a plot by plot basis subject to it being protected by a 4.0m high bund from flooding from the Sulby River. This area has not been developed. In the West Ramsey Development Framework (WRDF) 2004, a public house/community facility was included in this document. The content, land allocations and Policies contained in the RLP; and, the WRDF are afforded substantial weight.

3.2 The Policies outlined in the Isle of Man Strategic Plan 2016 are of relevance and are listed below. The SP is the main development plan covering the island. It seeks to promote sustainable development such as that proposed on allocated sites taking into account access, appearance, landscaping layout, and scale siting, with policies relating to impacts on the character of the area and surroundings, flood risk, ecology, affordable housing community facilities and to constrain and protect areas of the Island which have visual, historic, landscape, and wildlife value and/or are constrained by flood risks issues. The Plan was first adopted in 2007, with the 2016 version being an update with minor changes. The Policies contained in the IOM SP 2016 are afforded full weight.

The relevant Policies in the Isle of Man Strategic Plan 2016 are:

Chapter 4 - Strategic Objectives: STRP1, STRP2, STRP3, STRP4, STRP10, STRP11;
Chapter 5 - Island Spatial Strategy: SPP2, SPP3;
Chapter 6 - General Development Considerations: GEN2, GEN3, GEN4;
Chapter 7 - The Environment: ENV1, ENV3, ENV4, ENV5, ENV7, ENV10, ENV13, ENV22, ENV24, ENV28, ENV42;
Chapter 8 - Housing: H1, H2, H5;
Chapter 10 - Sport, Recreation, Open Space and Community Facilities: RP1, RP4, RP5; and, CP1, CP2, CP11;
Chapter 11 - Transport, Infrastructure and Utilities: TP1, TP2, TP3, TP4, TP5, TP6 and TP7.

3.3 In June, 2022, a Draft Area Plan for the North and West (DAP) of the Island was published and comments on it sought. The plan promoted the deletion of the application site as an allocated site for development, with it being put forward as an area of 'Proposed Open Space'. No further work has been carried out on the DAP since publication and given that the proposed policies and allocations contained therein have not been the subject of public scrutiny, it is effectively for information only, and as a consequence, holds no weight.

3.4 In terms of Flood Risk, in 2017 the Isle of Man Government produced Indicative Flood Risk Maps for the Island which show parts of the northern and western areas of the site being at risk from River and Tidal flooding, where in the case of river flooding the extent of a flood with a 1% (1 in 100) chance of happening in any year is shown; and, in the case of flooding from the sea, the extent of a flood with a 0.5% (1 in 200) chance of happening in any year, is shown. In respect of the risk from surface water flooding, the site and immediate surroundings are shown as not being at risk from such events.

4.00 PLANNING HISTORY

4.1 In terms of planning history, the site was the subject of the following applications:

91/01487/A - Approval in principle for mixed residential scheme, business/industrial park & landscaping land at Poylldooey - 91/01487/A - APPROVED at Appeal -1.1.94.

91/00575/A - Approval in principle for mixed residential scheme, business/industrial park & landscaping, land at Poylldooey, Ramsey (amended) - 91/00575/A - REFUSED -1.1.94.

00/02041/A - Approval in principle for change of use of land for mixed purposes including, residential, commercial/retail, business park, industrial and car parking on Land off Gardeners Lane Poylldooey Ramsey - REFUSED -13.6.2001.

PA Refs: 01/01462/A for Approval in principle for residential and business park development; and 05/01191/A for Approval in principle for the erection of a manufacturing plant for the processing and packaging of medical foods including R & D and administration facilities - both on Land off Gardeners Lane Poylldooey Ramsey, were respectively Withdrawn on 8/2/2005 and 19/12/2005.

DEVELOPMENT ON ADJOINING LAND

4.2 Adjoining the site to the west, the Dandara scheme at Auldyn Meadows PA 11/00990/B for 45 dwellings was consented in May, 2012. This site formed part of an originally larger area of land which extended to the north of Auldyn Meadows and was covered by PA 03/00790/B for "Residential estate development comprising of roads, plots, sewers, flood protection measures, drainage, public open space and layout for 26 semi-detached dwellings, 69 terraced dwellings, 42 apartments and 38 self-build plots. This was approved in April, 2006, however, the area of the site consented for residential development on a plot by plot basis was subject to it being protected by a 4.0m high bund from flooding from the Sulby River. As the applicant did not own all the land covered by the site area, this element of the proposals was not implemented.

5.00 REPRESENTATIONS - These are available to view in full on the DEFA Planning website under Ref: 22/00679/B.

5.1 Representations have been received from a number of Government bodies and from Manx Natural Heritage. DOI Highways and Ramsey Town Commissioners have both raised NO OBJECTION to the proposed development. DEFA Minerals has no comments to make. The Inland Fisheries manager requested more information which was received, however, no further comments were made. The Environmental Health Unit requests conditions restricting time limits for noisy operations and standard hours of work on the site.

5.2 The following raise objections to the proposals:

DEFA - Climate Change Transformation Team - strongly objects due to the impact on the Poyll Dooley saltmarsh - approximately 2.630 hectares - arising from its proximity to the development site. "Even though mitigation measures might be in place for flood prevention to the housing, this does not extend to protection of the river system from increased sedimentation and surface water flow rates (especially during the site clearing and construction phases). Given that this is an important habitat and so close to the site, a development of this sort would be detrimental to the ecosystem health of the saltmarsh and its ability to function as an important carbon store."

DoI Public Estates and Housing initially advised that 25% Affordable Housing provision should be secured via a S13 Agreement. DoI Housing was subsequently asked to comment on the

submitted Affordable Housing Viability Assessment. Following discussions with the Public Estates and Housing Team, the following comments were received on 3/1/24:

"It is clear from the application that the cost of the Spine Road and much of the extraordinary costs for the infrastructure will be incurred during the currency of Phase 1, and if we are to consider any relaxation in the provision of affordable housing then even for cashflow purposes it would be during this phase that the Department may agree to a reduction in the 25% provision. As you state, once the phase 1 works are complete then it would be easier for the applicant to provide an acceptable number of affordable homes in Phase 2; accordingly, the Department would agree to flexibility in the timing of delivery of affordable homes but in view of the current FTB Register numbers and the waiting list for homes for rent in Ramsey and the North we see it as imperative that a site such as this should be capable of yielding at least a substantial proportion of the stipulated number of affordable homes.

Clause 5.4 in the Operational Policy on Section 13 Agreements states in the third para that 'It is important not to lose the opportunities to deliver affordable housing due to the timing of developments and consequently if a development proposal suggests affordable housing is not viable at the current time, then consideration should be (given) to refusing the application and waiting until such time as it is viable'. It appears that this application, in part at least, is unviable but that the later phase when seen as a development entity in isolation will likely be viable. It would be better if the Section 13 could include a fixed number of dwellings for production after Phase 1 completion rather than on review in order that there is a degree of certainty. There is evident need in the region for affordable housing and that is this Department's principal concern when considering Section 13 Agreements."

DoI Flood Risk Management Division: The FRM Team do not support any construction on a greenfield site within a flood plain, a comment it re-iterates in subsequent correspondence. FMD are still waiting for the Draft FMD Policy Document to be approved as well as the completion of the new Flood Risk Maps (due February 2024) to support their Objection.

DoI Public Rights of Way (PROW): "I have received a request for several public rights of way to be presumed dedicated through uninterrupted use. We are processing the order to add them on the definitive map. But it may not be released before the planning committee meet. I have attached the map for your reference."

MNH - Has concerns about the loss of woodland habitat, wetland and hedgerows; the potential for flooding on and adjacent to an intertidal area and floodplain. Despite receipt of Ecology, Final report, October, 2022, MNH remain concerned about sediment entering the water course and potentially being deposited further downstream or across the saltmarsh, which is in the IOM Climate Change Action Plan 2022-23 identifies as priority carbon sequestering habitat. MNH "do not feel that the significant loss of the ecology as a result of this development CAN be addressed given that part of the application site supports habitat which is significant enough to have already met the criteria of an Area of Special Scientific Interest." Any further comments received will be reported.

MUA - 29/7/22 - commented: Manx Utilities will not be able to support this application as the applicant has failed to demonstrate how the development will be adequately drained with both foul and surface water. MUA has since been re-consulted - 15/12/23, and 8/1/24, and has raised no objection to the condition relating to the proposed foul and surface water drainage schemes.

6.00 REPRESENTATIONS

6.1 15 letters of representation have been received from local residents - all raise concerns regarding the proposals. 3 letters are from one local address; and, 3 representations are from the Manx Wildlife Trust. Concerns raised are summarised as:

- o Loss of wildlife area;
- o Adverse impact on animals, birdlife, wild plants and flowers from human and vehicular traffic movements;
- o Development would compromise the IoM's unique UNESCO Biosphere status;
- o Development would ruin the landscape;
- o Do not build on the flood plain - it will surely flood;
- o None of the land is designated as 'residential'. It is unacceptable to build on a Nature Reserve;
- o Poor design of new houses which are ugly, and out of character with their surroundings;
- o This area is becoming congested and will most certainly be a huge problem for traffic at the exit;
- o All new developments should be forced to build properties with solar panels, heat pumps etc. thereby making them as carbon neutral as possible;
- o Noise disturbance and light pollution from both the development and from events at the PH;
- o The use of the PH would adversely impact on wildlife from dog walkers and visitors frequenting the PH;
- o Disturbance from construction works;
- o Existing riverside residents have concerns about flooding as river overflows in to rear garden areas and existing river retaining walls need to be maintained;
- o Sending water back up river will inevitably lead to more flooding further up the Sulby river to landowners fields and houses;
- o A café would be more appropriate than a Public House;
- o Three pubs in Ramsey have recently closed is there a need for another one;
- o This application should be refused as the Government has designated the land in question as 'open space, or 'proposed open space', and none of the proposed development site falls within an area zoned for commercial or residential usage;
- o The pictures make this area look like a Spanish island but the reality is it is wet, cold Isle of Man where the rainfall is above the average and drainage is extremely poor;
- o There are over 5000 houses on this beautiful island that are not lived in, run down properties and brown field spaces which are more in keeping with small developments;
- o Coastal erosion is now a threat to our island, especially along the northern coast. Bad news for those in Laxey (given) the news about the landslide recently;
- o Local residents cannot afford to buy the houses on offer and there is no option of renting affordable housing;
- o Manx Wildlife Trust consider the site to be of national importance for biodiversity;
- o MWT object to the above planning application as the proposal will cause irreparable damage to one of our Island's most important areas for biodiversity, home to key species & priority habitats and a vital green space in an urban setting. The proposal does not constitute sustainable development as outlined in the Strategic Aim of the Strategic Plan. Furthermore, it will undoubtedly lead to net biodiversity loss, contrary to legislation and Government policy;
- o MWT considers that the proposal will cause irreparable damage to one of our Island's most important areas for biodiversity, home to key species & priority habitats and a vital green space in an urban setting. Furthermore, it will undoubtedly lead to net biodiversity loss, contrary to legislation and Government policy.

7.00 SUMMARY OF ISSUES

7.1 The section below highlights the benefits and dis-benefits of the proposed development:

Benefits of the scheme

- Development of an allocated Site in the Local Plan providing 205 dwellings, commercial and retail development; and, a PH/Community Facility for the benefit of Ramsey.
- Closest developable site to Ramsey Town Centre - easy walking/cycling distance of 500-600m.
- Provision of new Spine Road linking Poyll Dooley Road with Auldryn Walk and Gardeners Lane - allows link to the town centre without involving the A3. Also serves the Greenlands Ave and Lezayre Park residential developments.
- New Spine Road set at a level of between 5.0m and 6.5m AOD acting as a flood barrier for the residential development to the south of it and to existing development around the site to the south.
- New Spine Road set at a level of between 5.0m and 6.5m AOD acting as a flood barrier for the residential development to the south of it and to existing development around the site to the south.
- 5.4 Ha of Open space provision including a LAP, (Local Area for Play) LEAP (Local Equipped Area for Play) a NEAP (Neighbourhood Equipped Area for Play) and informal POS - secured via a S13 Agreement.
- Significant measures of biodiversity mitigation and landscaping are proposed and can be conditioned via a LEMP - Landscape Environment Management Plan.
- The staging and nature of how the development would be undertaken with priority given to the installation of the Spine Road would not result in a significant amount of increased sedimentation and surface water flow rates (particularly during the site clearing and construction phases).
- No highway safety concerns subject to conditions. New Bus Stop provided on Spine Road.
- The site and development can be delivered within a reasonable time-frame - 136 months.
- In addition to construction jobs, the development would create approx. 156 new jobs when complete and operational.
- Possibility of Affordable Housing provision at the Reserved Matters stage for the outline element with dwellings secured via a S13 Agreement.

Dis-benefits of the scheme

- Visual impacts - change to the character of the area. The development will appear as an extension of Ramsey into the open countryside.
- Flood risk issues - objection from DoI Flood Risk Team in respect of development in the floodplain being contrary to adopted Policy. Although, no comments on the FRA to substantiate their objection have been provided.

- Impact on Protected Species - objection from MNH and DEFA Ecosystems Policy Officer through loss of trees and habitat, and lack of submission of habitat and species surveys.
- Impact on the Sulby River and marine life in both the river and the sea - Objection from MNH, DEFA Ecosystems Policy Officer and DEFA Climate Change Team.
- No Affordable Housing Provision for Phase 1 as per Policy H5 - 25% of 78 dwellings = 19.5 AH units.
- The development would result in a significant amount of increased sedimentation and surface water flow rates (especially during the site clearing and construction phases).
- The development would be counter to several public rights of way to be presumed dedicated through uninterrupted use across the site. The PROW Team is processing an Order to add them on the definitive map.
- Impact on adjoining Poyll Dooley Nature Reserve from increased usage - dog walking etc.

7.2 The main issues are whether the development of the site in the manner proposed is acceptable in principle; the harm that would arise from the visual impact of the development; and, whether it would lead to an unacceptable increase in flood risk - both on site and downstream; whether the impact on biodiversity through loss of wildlife habitat, and impact on the river environment and marine life out in the Ramsey Bay would be acceptable. A further issue is whether the provision of no Affordable Housing, at least in the first Phase, would also be acceptable.

PRINCIPLE OF DEVELOPMENT

7.3 The site was allocated for mixed use development in the Ramsey Local Plan 1982, and in the Local Plan update of 1998. Map No. 2 (South) in the 1998 LP shows the majority of the site extending west as being allocated for Light Industrial Uses; and, the eastern part of the site to the south of Poyll Dooley House, allocated for residential uses. It is also shown on the Key Diagram in the West Ramsey Development Framework (WRDF) 2004 as comprising:

- 1 - The Ballachrink Mixed Industrial and Business Use Area (undeveloped);
- 2 - Medium/High Density Housing Area (Partly built out by the Dandara Audlyn Meadow Housing Scheme); and,
- 3 - Low Density Housing (Partly on the site of the PA 03/00790/B to the north of the Dandara site)

7.4 The Ramsey Local Plan 1998 remains in force as the development plan for the area and the land allocations within it remain relevant and pertinent. It has not been superseded. It sits under the Isle of Man Strategic Plan 2016 as the planning policy document guiding development for the Island - its policies are relevant and pertinent to the development proposed. The site, and the Poyll Dooley Nature Reserve to the north are shown in the June, 2022, Draft Area Plan (DAP) for the North and West of the Island as 'Open Space for Particular Purposes'. This document is a published draft which has not been tested publically, let alone adopted as planning policy by the Minister. Its content is 'aspirational' and holds little weight in the planning balance.

7.5 The application site comprises a number of agricultural fields separated by hedgerows and sod banks that have not been used for agricultural purposes (grazing or cropping) for a number of years. The site has benefitted from an ecological secondary succession whereby it has become a relatively diverse area and habitat for wildlife (flora and fauna). It does, however, remain as agricultural land and it could be ploughed or grazed, with hedgerows trimmed, scrub removed, and trees cut back or felled, tomorrow without any recourse to DEFA Planning. The fact that on the ground it has benefitted wildlife does not diminish its agricultural status or that it is allocated for development as outlined in the RLP 1998, and as per the contents of the WRDF. Given the above, the principle of development for the development as proposed is accepted. (See IoM Strategic Plan 2016 Policies STRP1, STRP2, STRP10, STRP11, SPP 2, SPP3, HP1, HP2, RP4, RP5, TP2, TP3, TP4, TP5)

QUANTUM OF DEVELOPMENT RELATIVE TO ITS STATUS AS AN ALLOCATED SITE

7.6 Please see paragraphs 7.3 and 7.4 above. In favour of the application, the development would bring 205 new dwellings to the Ramsey area in a sustainable location within 500-600m of Ramsey Town Centre; it would be constructed over a period of approx. 136 months; and, would provide employment opportunities, both during the construction phase, and 156 jobs post development in the Industrial Units, Shop Kiosks; and, new Public House/Community Facility. It would provide open and recreational space that would promote Sulby riverside in this area which in conjunction with the PH would provide improved access and opportunities to enjoy the Riverside, Poyll Dooey Nature Reserve and to improve connectivity to the White Bridge (footbridge) over the Sulby River at the head of Gardeners Lane. This links the area with existing residential development on and around Jurby Road in the northern part of Ramsey. (See IoM Strategic Plan 2016 Policies STRP1, STRP2, STRP3, STRP4, STRP11, SPP2, ENV28, HP1, HP2, RP4, RP5, TP2, TP3, TP4, TP5)

THE SPINE ROAD

7.7 It would also provide a Spine Road that would link Poyll Dooey Road to the east of the site with Auldyn Walk to the west where access to this adjoining development is facilitated and expected. The Spine Road would provide a link for the development; Auldyn Walk, and existing dwellings at Greenlands Avenue and Lezayre Park to the south of Auldyn Walk. There are no ransom strips affecting connectivity of the Spine Road. This would provide an alternative through route between these areas and Poyll Dooey Road by the Post Office Depot offering a direct link to Ramsey Town Centre that avoids the A3 Lezayre Road and Parliament Square. This would be most effective during periods of road closure on the A3 (TT fortnight and Manx GP etc.). (See IoM Strategic Plan 2016 Policies STRP10, RP5, TP2, TP5)

FLOOD MITIGATION MEASURES

7.8 The second aspect of implementing the new Spine Road is that it would be set at a level of between 5.0m and 6.5m AOD2 (Douglas) acting as a flood barrier for the new residential and commercial development to the south of it and to existing development around the site to the south. The applicants have provided an EIA and Flood Risk Assessment which indicates that despite part of the site being in a Flood Risk Area in respect of river and tidal flooding, the measures outlined in the FRA indicate that the 1% (1 in 100) chance of a case of river flooding any year; and, in the 0.5% (1 in 200) case of flooding from the sea, with a chance of happening in any year, would be avoided as a result of the flood protection measures that the scheme would provide. This would have the further benefit of adding protection from flooding for existing development to the south. This is shown in the Masterplan and such resilience to flooding is aided by the bulk of the new development being sited behind (to the south) of the Spine Road with the flats to the north of the Spine Road, being flood resilient with their living accommodation being raised on stilts. The same principle would apply to the new Public House/Community Facility whilst the Industrial Units located between the PH site and the Spine Road would be flood resilient, in that they would be designed to withstand flood events.

The flood mitigation measures proposed included in the design to ensure that the development is safe from flooding and there is no increase in flood risk, are:

- o A protected area in the south-west part of the site that contains most of the residential properties. The area is protected by the spine road and a road that connects to the developed area south of the site. The level of these roads is 6.50 m AD02, about 0.5 metres higher than the projected 0.5% flood level in the year 2120 of 6.01 m AD02;
- o Flood resilient residential and non-residential buildings outside the protected area with a typical minimum Finished Floor Levels of 6.65 m AD02, about 0.65 higher than the projected 0.5% flood level in the year 2120;
- o High level access to all residential properties with a minimum level of 6.50 m AD02, about 0.5 metres higher than the projected 0.5% flood level in the year 2120;
- o A landscaped floodplain flow path to improve fluvial flood flows across the floodplain north of the spine road and reduce fluvial flood levels.

7.9 DoI FMD has objected to the proposals on the grounds that it represents development in the floodplain. The FMD Team has commented that it has general areas of concern but is waiting for the Draft FMD Policy Document to be approved as well as the completion of their new Flood Risk Maps (due February 2024) to support their Objection. The FMD Team has raised no specific objection to the proposals other than the objection that that the scheme lies within the floodplain. In response to the floodplain objection from FMD, the applicants specialist advisers HR Wallingford produced a further document (dated 1/12/2022) outlining the threats proposed by the identified sources of flood risk - rivers and the sea - the approach to managing flood risk; and, the flood mitigation measures as part of a comprehensive Flood Risk Assessment received on 10/2/2023. This expands on the findings of the Flood Risk; and, Water Resources and Water Quality sections of the Environmental Statement; and the hydraulic modelling report (2022) produced by JBA Consulting, working in tandem with HR Wallingford. Both HR Wallingford and JBA Consulting are well regarded as Flood Risk Management experts who are leading practitioners in their respective fields in the UK, and abroad.

7.10 The evidence presented by both is considered to be reliable, acceptable, and the measures proposed, achievable in minimising the flood risk implications arising from the development. Further correspondence between the Case officer and FMD has garnered no constructive response. It is considered that the Flood Risk Measures prepared and proposed by both HR Wallingford and JBA Consulting in support of the application are acceptable, deliverable and when implemented should not lead to undue flood risk to the development, or to the increased risk of flooding beyond the site along the Sulby River, or in the Ramsey Harbour area. In this regard, the proposed development is policy compliant. (See IoM Strategic Plan 2016 Policies ENV5, ENV10, ENV22 and ENV28).

IMPACT ON BIODIVERSITY

7.11 As indicated in paragraph 7.5 above, the site comprises a number of agricultural fields separated by hedgerows and sod banks that have not been used for agricultural purposes (grazing or cropping) for a number of years. The site has benefitted from an ecological secondary succession whereby it has become a relatively diverse area and habitat for wildlife (flora and fauna). It does, however, remain as agricultural land and it could be ploughed or grazed, with hedgerows trimmed, scrub removed, and trees cut back or felled, tomorrow without any recourse to DEFA Planning. The fact that the current ground conditions have benefitted wildlife does not diminish its agricultural status or that it is allocated for development as outlined in the RLP 1998, and as per the contents of the WRDF. The site,

adjoins the Poyll Dooley Nature Reserve to the north, and its wildlife and biodiversity qualities have benefitted from this proximity and by it not having been actively farmed or otherwise developed for a considerable number of years.

7.12 The comments received from the Flood Risk Team - which are silent on any biodiversity implications arising from the development - the Climate Change Team; the Ecosystems Policy Officer, Manx Natural Heritage; the Manx Wildlife Trust, and third parties, are all noted. The Climate Change Team and MNH have advised that the development would result in harm to the Sulby Riverside; River bed; and, to the bay beyond the harbour, particularly through the deposition of fines, sediment, and erosion, and from other material arising from on-site excavations, and storage of material which may then be subject to wind and rain erosion, weathering, and to run-off entering the river system with consequent harm to the riverbank/salt-marsh environment, with such material covering over the river bed and breeding areas for invertebrates, fish a, molluscs and shellfish. It is appreciated that as per the Climate Change Act 2011 Schedule, Section 6, the maximisation of carbon sequestration must be taken into account in the forthcoming amendments to the national policy directive or a development plan (i.e. Strategic Plan) by 2025, with this section of the Act expected to be commenced in 2024. However, it is noted that none of the approx. 2.63 Hectares of salt marsh or other protected habitat is contained within, or forms part of the site.

7.13 The Ecosystem Policy Officer has advised on 20th July, 2023, that "because of how sensitive the site and its surroundings are we really believe that pretty much all of the surveys really need to be done prior to determination, because there is no point approving something with set number of buildings, layout etc, or even approving something in principle, if development cannot be accommodated on site without extremely detrimental impacts to the ecology. The outcomes of the surveys are required to inform the layout of the site. Also the surveys will help to determine if development is appropriate on the site full-stop, which at the moment we do not believe it is."

7.14 Whilst the above comments are acknowledged, it is noted at both paragraphs 7.5 and 7.10 that whilst the site has become a relatively diverse area and habitat for wildlife (flora and fauna), it remains as agricultural land and it could be ploughed or grazed, with hedgerows trimmed, scrub removed, and trees cut back or felled, without any recourse to DEFA Planning. The main benefit of surveys would be to inform the Reserved Matters development where the layout has not yet been fixed. The habitat comprising the site area covered by the full element of the application and SR would, anecdotally, appear to be at less risk from disruption through development, as they are closer to existing development, and further from the River, where the more ecologically sensitive areas lie. This is a balancing act. Does the ecology and habitat protection take precedence on a statutorily unprotected site, or does the development of the site in the manner proposed prevail on this allocated site within easy walking distance of Ramsey Town Centre, with as much environmental mitigation as possible secured by way of conditions to minimise the environmental impact, whilst being for the social and economic benefit of Ramsey. And, if refused, where would a development of this variety and scale go for the benefit of Ramsey and the northern part of the Island offering what it does to the populace in general, when an alternative development on unallocated land to the west has been ruled out, and another alternative development some distance away to the north of Ramsey has yet to be considered?

7.15 The main areas of excavation and construction on site would be the Spine Road itself, and on land to the south of the Spine Road. Development would occur in phases with the SR being the main objective of the first phase of the development - covered by the Full element of the application (Phase 1) - and it is considered that any storage or deposition of excavated material would be located to the south of the SR. The application is accompanied by an Environmental Impact Assessment (EIA) which - inter alia - covers aspects of the

development such as those raised in the CCTT's and others concerns. The development of the site would occur in at least two phases with the first phase being the SR installation and the development of the Full element (Phase 1). It is unlikely that any excavation or storage of excavated material would occur north of the SR until the Phase 1 of the development has been completed. It is also considered that a CEMP - Construction Environment Management Plan should be conditioned which would cover both the Full and Outline elements of the development with possible revision at the Reserved Matters stage which would identify all measures to be taken to minimise any adverse impacts arising from deposition of fines, sediments, and erosion from material arising from on-site excavations, and its storage on the site. In addition, a LEMP - Landscape Environment Management Plan in conjunction with conditions requiring landscaping; the implementation of landscaping; and, biodiversity mitigation measures - should assist in minimising such impacts in respect of the development of the site; the impact of the development on adjoining land; the Poyll Dooey Nature Reserve; and, the salt marsh environment and river/marine environment beyond.

7.16 Officers have consulted with the Ecosystem Policy Officer with a view to formulating conditions that should be applied in the event of an approval being granted which would limit the impacts of the development on the site and surroundings. Clearly, the development of this allocated site in the manner proposed offers an imperfect solution. However, what solution would be perfect? No development would benefit wildlife and the immediate environment but would offer no economic and social benefits to the people of Ramsey and the surrounding area.

7.17 It is considered that on balance, the proposed development is acceptable in terms of its potential for adverse impacts on the existing ecology and habitat of this statutorily unprotected, allocated located site within easy walking distance of Ramsey Town Centre, with as much environmental mitigation as possible secured by way of conditions, including securing a CEMP; a LEMP; A Landscaping Scheme; Implementation of Landscaping, securing the addition of bee bricks and swallow cups to dwellings (on favourable elevations of dwellings away from opening windows) to minimise the environmental impact of the development.

7.18 This would accord with the allocation of the site in the Ramsey Local Plan 1998, as informed by the WRDA Development Brief 2004; and, the provisions of Policies STR2, STR4, STR5, GEN2, ENV3, ENV4, ENV5, ENV7, ENV13, ENV22, ENV24 and ENV42.

PUBLIC RIGHTS OF WAY

7.19 The DEFA Public Rights of Way Team (PROW) has advised that they have received a request for several public rights of way to be presumed dedicated through uninterrupted use across the site and is processing an Order to add them on the definitive map. The Order has yet to be confirmed. Rights of Way could be maintained across the site where they do not conflict with the proposed layout of the development, particularly in phase 1, and could be adjusted and incorporated into the outline layout at the Reserved Matters Stage. It is considered that the proposals by the PROW Team to confirm the Rights of Way would not preclude the development of the site.

LOCATION, DESIGN AND SCALE OF THE PROPOSED DWELLINGS - FULL ELEMENT

7.20 With regard to the design and visual impact of the proposed development, the submitted masterplan Drawing No. 296-300-100 (Rev. F) outlines how the site would be developed with the Spine Road running across the site in an east-west direction. The bulk of the built form of development would be to the south of the Spine Road, where it would relate to existing development on the south side of the former railway line and to the west at Audlyn Meadow. In respect of design features, the proposed dwellings for Phase 1 of the development, where Full PP is sought, are a mix of:

- o House Type A x 10 - 2-Storey Town House; 3B/5P - Terraced - located to south of Spine Road;
- o House Type B x 12 - 3-Storey Corner Apartments (1 per level); 1B/2P - located to S of SR and on corners of Streets 1, 2 and 3;
- o House Type C x 48 - 2-Storey Semi-Detached; 3B/5P - located S of SR - see Streets 1, 2, 3 and Crescent;
- o House Type D x 2 - 2-Storey Detached; 3B/5P - located S of SR - see Streets 1 and 3;
- o House Type E1 x 4 - 2-storey Town House; 3B/5P - located on Street 9 - N of SR;
- o House Type E2 x 2 - 2-storey Town House; 3B/5P - located on Street 9 - N of SR;

Total No. of Units = 78.

Total No. of Beds = 203

Total No. of Persons = 258

7.21 All Phase 1 dwellings would be capable of having Solar PV panels and Air Source Heat Pumps installed. Those dwellings with 1 or more car parking spaces would have 50% of their car spaces surfaced with a permeable finish - grass-crete.

7.22 It is considered that the scale, design and layout of the proposed development for Phase 1, to the south of the Spine Road; the relationship of the dwellings to each other, and adjoining development; the inclusion of the LAP and LEAP; and the ability to connect with Auldyn Meadows; Poyll Dooey Road via the Spine Road, and via footpath links to the south onto the footpath cycleway of the old railway line, would result in a form of development that was well related to and well-integrated into its surroundings, and is considered to be acceptable in these regards. (See IoM Strategic Plan 2016 Policies STRP1, STRP2, STRP3, STRP4, STRP11, SPP2, GEN2, ENV7, ENV10, ENV13, ENV22, ENV24, HP1, HP2, RP4, RP5, TP2, TP3, TP4, TP5)

COMMENTS ON THE LACK OF AFFORDABLE HOUSING - SP POLICY H5

7.23 In terms of the western and northern parts of the application site which are the subject of the Outline Planning permission element of this application, the details of how the development is proposed to be laid out in respect of up to 127 new residential units in the form of dwellinghouses and flats, flexible commercial space, a new public house and new retail space with all matters reserved save for access, are indicated on the submitted masterplan Drawing No. 296-300-100 (Rev. F). This outlines the flatted residential development on the north side of the Spine Road, and residential and commercial development to the east side of Street 3 (including Streets 4-7); the commercial units and Public House and picnic area on the north side of Street 8; the NEAP (Neighbourhood Equipped Area for Play); and, the commercial units/kiosks on the north side of and with lay-by access onto the Spine Road. It is considered that as the line of the Spine Road is fixed, and that it would be installed prior to development on the outline application area commencing, that the indicative layout of the development proposed for this part of the site would be very likely to occur in the manner shown on the Masterplan, and as per the submitted house types for the residential units as per the Full part of the application. As this element of the proposals is less likely to be required to cross-subsidise the Spine Road because it should already be installed, the applicants have advised that they would be willing to accept a review clause in any S13 Agreement where the question of the provision of some Affordable Housing could be made within the outline application area. The starting point would be 25% of the approx. 127 Housing Units this area could provide (approx. 31.5 AH Units).

DESIGN AND VISUAL IMPACT - OUTLINE ELEMENT OF THE APPLICATION

7.24 This outline element of the application is considered to be acceptable because it would secure the development of the rest of the allocated Sulby Riverside site with the majority of the proposed residential development (127 of 205 new dwellings) most likely being reflective of the appearance, layout, and scale of those for the full element of the proposals, with access being fixed (Spine Road) at the outline stage. This element of the proposals would provide all of the 156 non-construction jobs within the Commercial Units/Shop Kiosks/Public House. It would also provide a NEAP, picnic area associated with the PH, retention of existing mature trees, and natural water storage/drainage areas close to the bend in the Sulby River which adjoins the sites NE boundary. (See SP Policies GEN2, and ENV1).

8.00 SUMMARY & CONCLUSION

8.01 The proposed development is on an allocated site in the 1998 Ramsey Local Plan as advised in the WRDA Development Brief 2004. The provision of a Spine Road underpins the development of this allocated site as was envisaged in these valid Policy Documents. The Draft Area Plan for the North and West (DAP) - published June 2022 - promoted the deletion of the application site as an allocated site for development, with it being put forward as an area of 'Proposed Open Space'. No further work has been carried out on the DAP since publication and given that the proposed policies and allocations contained therein have not been the subject of public scrutiny, it is effectively for information only, and as a consequence, holds no weight.

8.02 There is a lot of pressure on environmental grounds from various bodies both within and outside Government for no development to take place and for the site to remain as a 'wild area' which may flood occasionally, and over time, it is likely to increase in its biodiversity offering. However, this would need to be undertaken via a programme of active management which does not exist. It is noted that the site could also be farmed (cattle/sheep grazing) as of now which would diminish its biodiversity value. The environmental comments, are therefore, also based on the hope that the site will become an area of Open Space as outlined in the Draft Area Plan for the North and West (published June, 2022). However, as advised above, this Plan and its policy objectives remain as aspirations.

8.03 Against the retention of the site in its current state is that the proposals offer a unique development opportunity for Ramsey on allocated land that should not easily be dismissed when the flood risk issues are addressed in the EIS, Flood Risk Assessment and additional FR documentation which is provided by a leading UK consultancy (who has informed the DoI in updating its Flood Risk Maps - to be published in 2024), with mitigation provided (Spine Road) amongst other things. It is unhelpful that constructive comments have not been forthcoming from DoI FMD.

8.04 The main conclusion of this Report is that if there is no Spine Road, the development in the manner proposed on this allocated site would not occur. The cost outlay in implementing the Spine Road means that Affordable Housing in Phase 1 will not be secured. In the IoM Governments publication "Operational Policy on Section 13 Agreements (2020)", Clause 5.4 reads:

"Where there is a longer anticipated build-time for a development (for example for larger housing estates) and it is accepted that a lower affordable housing contribution is acceptable, a requirement to reassess whether this can be increased prior to commencement of each phase may be included in the Section 13 Agreement. Nevertheless, where a development can only provide a reduced level of affordable housing due to viability issues this will weigh against the development in reaching a balanced decision as to whether it should receive planning approval."

8.05 The applicants have provided a viability argument that the cost of implementing the Spine Road up front obviates their ability to provide Affordable Housing on the Full, Phase 1 element of the proposals. This is accepted by Officers. The applicants have advised that they would be willing to accept a review clause in any S13 Agreement where the question of the provision of some Affordable Housing could be made within the outline application area. It is appreciated that the lack of AH 19.5 AH Units (25% of 78) on Phase 1 is significant and that it would make a difference in the Ramsey area and in the north of the Island as far as AH provision goes. In any review mechanism secured by the S13 Agreement for AH provision on the Outline Phase 2 element of the application, the starting point would be 25% of the approx. 127 Housing Units this would provide (approx. 31.5 AH Units). This would comply with the provisions of SP Policy H5. On balance, it is considered that given the sustainability argument for this allocated site - it is within easy walking distance of Ramsey Town Centre - and, that the SR would secure an alternative route from the new development on the site, and existing housing at Greenlands Avenue/Lezayre Park/Audlyn Walk to Ramsey Town Centre avoiding Parliament Square, these benefits to local people and road users, plus the flood alleviation measures that the Spine Road would provide, outweigh any concerns in respect of the lack of any AH provision within the Full element of the application.

8.06 It is considered that the proposals contained in this hybrid application offer an acceptable form of development that strikes a balance between benefitting Ramsey and the surrounding area in terms of housing and employment provision, community facilities and flood defence for both the site and existing development of land to the south in conjunction with open space and play space provision and achievable goals in relation to wildlife and habitat management. Members should also be mindful that the site off Lezayre Road to the west of Ramsey for 138 dwellings (PA 20/01080/B) was refused at appeal on 1/3/23; and, that the Hartford Homes site (PA23/00744/B) on the north side of Ramsey for up to 153 dwellings and Community Uses - some distance from the town centre - has yet to be considered. Therefore, this hybrid application which includes provision for up to 202 dwellings, at a sustainable location within easy walking distance of Ramsey Town Centre, would make a significant difference to Housing Supply and also to the Government's ultimate target for a 100,000 Island population.

9.00 RECOMMENDATION

Overall, the application is considered to be acceptable as the benefits offered by the proposed development are considered to outweigh the dis-benefits. The application is recommended for approval subject to the prior signing of a Section 13 Agreement to secure:

In the Full element:

- o The provision of the Spine Road;
- o Off-Site Highway Improvement Works;

Open Space and Estate Management comprising:

- o The provision of the LAP and LEAP with their relevant play equipment;
- o The provision of a commuted sum for the maintenance costs for the LAP and LEAP;

In the outline element:

- o That the Spine Road shall be completed prior to the implementation of the first of any approval of Reserved matters for the development of the outline element of the site;
- o A clause/mechanism to secure the provision of some on-site Affordable Housing;
- o The provision of the Commercial Units
- o The provision of the Public House/Community Facility including picnic area;
- o The provision of the shop/kiosks

Open Space and Estate Management comprising:

- o The provision of the NEAP with its relevant fully equipped play areas/courts/pitches /fencing and associated equipment;
- o Waymarking, signage and landscape interpretation boards along the Sulby Riverfront from the access onto Poyll Dooley Road in the east linking in with the Poyll Dooley Nature Reserve to the west;

And subject to conditions.

10.0 INTERESTED PERSON STATUS

10.1 By virtue of the Town and Country Planning (Development Procedure) Order 2019, the following persons are automatically interested persons:

- (a) the applicant (including an agent acting on their behalf);
- (b) any Government Department that has made written representations that the Department considers material;
- (c) the Highways Division of the Department of Infrastructure;
- (d) Manx National Heritage where it has made written representations that the Department considers material;
- (e) Manx Utilities where it has made written representations that the Department considers material;
- (f) the local authority in whose district the land the subject of the application is situated; and
- (g) a local authority adjoining the authority referred to in paragraph (f) where that adjoining authority has made written representations that the Department considers material.

10.2 The decision maker must determine:

- o whether any other comments from Government Departments (other than the Department of Infrastructure Highway Services Division) are material; and
- o whether there are other persons to those listed above who should be given Interested Person Status.

10.3 The Department of Environment Food and Agriculture is responsible for the determination of planning applications. As a result, where officers within the Department make comments in a professional capacity they cannot be given Interested Person Status.

PLANNING AUTHORITY AGENDA FOR 12th February 2024

Item 5.3

Proposal : **Erection of a single detached residential dwelling with integral garage**
Site Address : **Land In Front Of Bay View Hotel Between Shore Road Underway And Bay View Road Port St. Mary Isle Of Man**
Applicant : **Haven Homes**
Application No. : **21/00547/B- [click to view](#)**
Planning Officer : **Mr Hamish Laird**

RECOMMENDATION: To APPROVE the application

Recommended Conditions and Notes for Approval

C : Conditions for approval

N : Notes (if any) attached to the conditions

C 1. The development hereby approved shall be begun before the expiration of four years from the date of this decision notice.

Reason: To comply with Article 26 of the Town and Country Planning (Development Procedure) Order 2019 and to avoid the accumulation of unimplemented planning approvals. The site benefits from an extant planning permission PA10/01892/B - Erection of two dwellings with integral garages and associated visitor parking - Permitted - 26.04.2011. The car parking area on the beach side of the Underway has been verified by DEFA Planning as having been implemented and the time limit condition on this permission has been satisfied.

C 2. No work shall be carried out on in relation to the construction of any of the external surfaces of the dwelling hereby permitted unless details of the materials, colour and finish (including the provision of samples of brick, stone and slate; and, water resistant membranes) to be used for all external walls and roofs have been first submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall thereafter be constructed in accordance with the approved details.

Reason: To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area, in accordance with policy GP2 in the Adopted Isle of Man Strategic Plan (2016).

C 3. The vehicle parking spaces shown provided for the development, hereby permitted, both within and outside the garage as shown on Drawing No. 1512 001.01 Revision X - Site Plan - as proposed; and, Drawing No. 1512 001.02 Revision X - Proposed Floor Plans, Elevations and Sections - stamped received and dated 7 November, 2023, shall be provided prior to the first occupation of the dwelling and shall thereafter be retained and made available for vehicle parking at all times.

Reason: To ensure that sufficient on-site parking is provided to serve the development in order to avoid unnecessary on-street parking as per the requirements of the Manual for Manx Roads and Transport Policy 7 in the Adopted Isle of Man Strategic Plan (2016).

C 4. The windows to be inserted in the north elevation of the development, hereby permitted, serving the first floor bedroom and bathroom; second floor living room (2 windows); shall be glazed with obscure glazing at no less than Level 5 (greatest obscuration) on the Pilkington Scale of obscurity, with all windows being fixed and non-opening. Thereafter, these windows shall be retained as fixed non-opening units with obscure glazing at Level 5 for the lifetime of the development.

Reason: To protect the amenities of occupants of the adjoining dwelling at Willow Cottage, the Underway, Shore Road, in respect of any potential for overlooking and loss of privacy.

C 5. Prior to the commencement of the development hereby approved, details of a landscape shall be submitted to and approved in writing by the Department. All planting, seeding, and earth works comprised in the approved details of landscaping shall be carried out in the first planting and season (November - March) following the substantial completion of the development whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Thereafter, all soft and hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure the provision of an appropriate landscape setting to the development, and to safeguard the appearance of the development and the surrounding area.

C 6. The development, hereby approved, shall not be commenced until details of a 'Construction Environment Management Plan' (CEMP), which details on-site management measures that would protect the Baie Ny Carrickey Marine Nature Reserve (MNR), which is located only 15m to the east of the development site, during all phases of the development, where all environmental legislation and policy is adhered to, and will need to include at least the following measures to be put in place to prevent damage and disturbance to the MNR. Such measures must include:

- o The provision of spill kits,
- o The provision of secure storage areas away from the MNR,
- o The use of biodegradable oils;
- o The use of oil and silt interceptors;
- o Detailed measures outlining good waste management and litter prevention on and around the site;

All works carried out during the construction period shall be undertaken strictly in accordance with the details outlined in the approved CEMP.

Reason: To provide adequate safeguards in terms of site management during all phases of the development period including any works of demolition, excavation and construction, because Baie Ny Carrickey Marine Nature Reserve (MNR) is located 15m to the east of the development site, and there is potential for damage to the MNR, should responsible construction practises not be implemented.

C 7. Prior to the commencement of the development, hereby permitted, updated elevations shall be submitted showing the positions of:

- o 4 integrated universal nest bricks - which must not be located directly above windows;

- o 2 integrated bat boxes on the south elevation which must not be located close to the ground or above opening windows;
- o An integrated bee brick on the south elevation;

Such details as approved, shall subsequently be installed prior to the first occupation of the dwelling; and shall thereafter be retained and maintained for the life time of the development.

Reason: In the interests of improving the biodiversity of the site and development and for the conservation and protection of legally protected species, in accordance with the requirements of the Wildlife Act 1990 and Environment Policies 4 and 5 in the Adopted Isle of Man Strategic Plan 2016.

C 8. Prior to the commencement of development on site, including any works required for excavation, protective 'Heras' fencing shall be erected around the mature elm tree on site to be retained where it abuts the areas of development. The protective fencing should be installed to form a construction exclusion zone in accordance with BS5827:2012. Such fencing shall be retained in the positions shown throughout the construction period for the development, hereby permitted. At no time before, during or after the construction period, when the fencing has been removed, shall any construction materials, machinery, liquids or fuel be stored within any of the 'Construction Exclusion Zones' shown and annotated as such on the Tree Protection Plan.

Reason: To ensure that the mature elm tree to be retained on the site is protected throughout the construction period.

C 9. Details of foul and surface water drainage provision to serve the development, hereby approved, shall be submitted to and approved in writing by DEFA Planning. Such approved drainage scheme shall be installed prior to the development hereby permitted being first occupied and shall thereafter be retained and maintained at all times.

Reason: To ensure that the site is adequately drained and does not increase the risk of flooding elsewhere.

C 10. Notwithstanding the provisions of the Town and Country Planning (Permitted Development) Order 2012 (or any Order revoking and/or re-enacting that Order with or without modification) no extension, enlargement or other alteration of the dwelling, including the installation or replacement of any windows or doors, hereby approved, other than that expressly authorised by this approval, shall be carried out, without the prior written approval of the Department.

Reason: To control development in the interests of the amenities of the surrounding area.

C 11. Notwithstanding the provisions of the Town and Country Planning (Permitted Development) Order 2012 (or any Order revoking and/or re-enacting that Order with or without modification), no garages or other free standing buildings shall be erected or enclosure, swimming or other pool, container for domestic heating purposes for storage of oil or liquid petroleum gas, or the erection of a gate, fence, wall or other means of enclosure, within the curtilage of the dwelling hereby approved, other than that expressly authorised by this approval, without the prior written approval of the Department.

Reason: To control development in the interests of the amenities of the surrounding area.

C 12. Prior to the first use of the garage as part of the dwelling, hereby approved, provision for the charging of electric vehicles shall be made within the structure of the garage, and shall thereafter be maintained for the lifetime of the development.

Reason: The provision of an electric vehicle charging point will aid net zero objectives as outlined in the Isle of Man Climate Change Plan (2022 - 2027).

Reason for approval:

The proposed scheme would be an acceptable form of development that has been designed to ensure that it would not harm the use and enjoyment of neighbouring properties and would comply with General Policy 2 of the Isle of Man Strategic Plan 2016; and, the principles of the Residential Design Guide 2021.

Interested Person Status – Additional Persons

It is recommended that the owners/occupiers of the following properties should be given Interested Person Status because they comply with the requirements of The Operational Policy on Interested Person Status (July 2021), in that they are occupants of a property sited within 20 metres of the red line boundary of the application site and are considered to have sufficient interest in the subject matter of the application to take part in any subsequent proceedings and are mentioned in Article 4(2) Proximity to the Proposed Development (Criteria B):

Willow Cottage, The Underway, Shore Road, Port St Mary, IM9 5DY

as they satisfy all of the requirements of paragraph 4.2.2 of the Department's Operational Policy on Interested Person Status (July 2021), in that their property is located within 20 metres of the application site, and they have raised relevant planning points in their objection to DEFA Planning.

It is recommended that the owners/occupiers of the following properties should not be given Interested Person Status because they do not comply with the requirements of The Operational Policy on Interested Person Status (July 2021), in that they are occupants of properties sited more than 20 metres from the red line of the application site as mentioned in Article 4(2) Proximity to the Proposed Development (Criteria B):

Brier Cottage, 3 Willow Terrace, Port St Mary,
The Hon Juan Watterson MHK
Dr Michelle E K Haywood MHK for Rushen
'Baycrest', 3 Primrose Terrace, Port St Mary,
'Avoca', 7 Primrose Terrace, Port St Mary,

Planning Officer's Report

THIS APPLICATION IS RECOMMENDED TO BE CONSIDERED BY THE PLANNING COMMITTEE DUE TO THE NUMBER OF LOCAL OBJECTIONS; THE OBJECTION OF THE LOCAL AUTHORITY; THE SITES PLANNING HISTORY; AND, THE APPLICATION IS RECOMMENDED FOR APPROVAL.

1.0 THE SITE

1.1 The site represents a piece of undeveloped land which lies between Bay View Road, opposite the Bay View Hotel, and Shore Road between the Garden of Remembrance/War Memorial and Willow Cottage. The site has a frontage to Bay View Road of 32m and a depth of 18m. To the immediate north of the site is a set of public steps giving access from Shore Road Underway to Bay View Road. The site has vegetation on it at present including a large elm tree which is plotted on the proposed site plan. Also within the site is a piece of land on the shore-side of the road, to a depth of between 4.3m and 1.8m, along a length of 24.5m. A piece of land alongside Bay View Road is shown in blue and indicated "existing garden area to be retained".

2.0 THE PROPOSAL

2.1 This latest application proposes the development of a single detached residential dwelling with integral garage. Amended plans were received on 07.11.2023. The new building will be 9.65m high from Shore Road to the top of the ridge. The level of Bay View Road is approx. 0.75m above this.

2.2 Two trees - a prunus and a smaller tree to the north are to be removed: the elm at the northern end of the site is to be retained although care will have to be taken to protect the tree whilst works are being undertaken.

2.3 Across Shore Road parking in the form of a tarmac parking area to accommodate three vehicles annotated for visitors, would be provided. This area is presently covered in beach shingle. The works to create the parking bay involve the building up of the level of the parking area by at most 210mm with stainless steel rock anchors inserted into the bedrock below. The face to the beach is to be formed by a sloping stone faced slab.

2.4 Accompanying the amended plans was a covering letter which (in part) advises as follows:

"3 The general arrangement of the floor plans remains essentially the same as originally submitted:—

0) The ground floor comprises an entrance hall, a double garage and a gym. This floor's short front-to-rear length minimises encroachment into the topography behind, reduced from that of the extant approval. Habitable spaces have been arranged within larger volumes at first floor and above, with none to the smaller ground floor. The hall provides access to the upper storeys by a stair well and a lift. The garage will alternatively be capable of providing secure bicycle storage as existing car parking spaces, on the opposite side of Shore Road, are in the site's common ownership. The gym will contain a shower room and sauna.

1) The first floor extends further back, again following topography. The stair well ascends to a sitting room, with framed views of the Harbour's seascape. This space is flanked by a bedroom suite on each side, and a utility room behind the lift. The stair well admits roof-level natural light to the rear of the lower levels, also achieving a visual connection through the building's whole height.

2) The second floor is the largest, differing from that originally submitted with an additional footpath to the rear (west) elevation. This maintains, but repositions, the alternative access to the dwelling via the kitchen. The internal stairwell terminates onto a dining room, with a smaller connecting balcony than previously shown, now set back considerably and reducing the dwelling's perceived massing when viewed from Shore Road. The rear space accommodates an office and an adjoining store room. The dining room is flanked on one side by a master bedroom suite, and on the other by an open-plan kitchen and living space.

r) At roof level, the rear footpath will provide access to a roof terrace, compensating for the reduced external space of the second floor balcony. This terrace will also accommodate two air-source heat pumps.

4 The more pronounced changes are in the treatment of the proposal's external envelope, particularly the more traditional roof form:—

a) The structural strategy remains articulated on the front elevation, with four walls standing perpendicular to the hillside, dividing the dwelling into three volumes. These three volumes now take the form of two gable-ended elements bridged with a central circulation space.

b) The first floor of the central space projects forwards as before (again, not to such an extent as originally submitted). This takes the form of an elevated stone clad element framing a sheltered entrance below and supporting the dining room's balcony above. The vertical orientation of the three feature windows is emphasised with external band mouldings, emulating the windows of the stone-built terrace to the north, as seen on the updated comparative photomontages provided.

c) The pitched roofs will be finished in roofing slate, with the same finish extending to the south and north elevations. This alludes to several traditional Manx buildings, past and present that also employed roofing slate as a wall cladding material. Examples include houses that once stood on Church Street in Ramsey where St. Paul's Square is now situated and, more prominently, Bridge House and adjoining properties in Castletown" - (photographs to illustrate these sites included and available to view online).

3.0 PLANNING POLICY

3.1 The site lies within an area designated for mixed use purposes as shown on Map 7 - Port Erin/Port St Mary/Ballafession - in the Area Plan for the South (2013). It does not lie within any formally designated Conservation Area; and, there are no Registered Buildings on or adjoining the site. The Elm tree on the site, which is a prominent feature in the landscape when viewed from the Underway and the harbour, is not a Registered Tree. The shore line and carriageway of the Underway are shown on the DoI Indicative Flood Risk Map for the area as being a High Risk Flood Zone in relation to possible tidal flooding. The Baie Ny Carrickey Marine Nature Reserve (MNR) is located 15m to the east of the development site.

3.2 Given the above, there is a presumption in favour of residential development here, subject to the general standards of development as set out in General Policy 2 as follows:

"Development which is in accordance with the land-use zoning and proposals in the appropriate Area Plan and with other policies of this Strategic Plan will normally be permitted, provided that the development:

(b) respects the site and surroundings in terms of the siting, layout, scale, form, design and landscaping of buildings and the spaces around them;

(c) does not affect adversely the character of the surrounding landscape or townscape;

(d) does not adversely affect the protected wildlife or locally important habitats on the site or adjacent land, including water courses;

(e) does not affect adversely public views of the sea;

(f) incorporates where possible existing topography and landscape features, particularly trees and sod banks;

(g) does not affect adversely the amenity of local residents or the character of the locality;

(h) provides satisfactory amenity standards in itself, including where appropriate safe and convenient access for all highway users, together with adequate parking, servicing and manoeuvring space;

(i) does not have an unacceptable effect on road safety or traffic flows on the local highways.

- (j) can be provided with all necessary services;
- (k) does not prejudice the use or development of adjoining land in accordance with the appropriate Area Plan;
- (l) is not on contaminated land or subject to unreasonable risk of erosion or flooding;
- (m) takes account of community and personal safety and security in the design of buildings and the spaces around them; and
- (n) is designed having due regard to best practice in reducing energy consumption. "

3.3 Other Policies contained in the Strategic Plan which are of relevance are:

Strategic Objective 3.3 Environment (b) - "To protect, maintain and enhance the built and rural environment (including biodiversity)."

Strategic Policy 4b) - Proposals for development must:

(b) protect or enhance the landscape quality and nature conservation value of urban as well as rural areas but especially in respect to development adjacent to Areas of Special Scientific Interest and other designations;

EP10 - Outlines the requirements for a flood risk assessment;

EP11 - Provides advice on coastal development;

EP13 - advises that: "Development which would result in an unacceptable risk from flooding, either on or off-site, will not be permitted.";

EP24 - Provides advice on pollution-sensitive development;

With regard to proposals for development on unstable land, paragraphs 7.22.1; and 7.22.2, are of relevance and precede the advice contained in EP 28.

"7.22 Unstable Land

7.22.1 The policy set out below aims to safeguard life and property from ground instability such as landslips and subsidence. Therefore, unless mitigating measures can be taken, development will not be permitted where it would be at risk from unstable land or increase the risk of ground instability elsewhere.

7.22.2 It may be necessary for a developer to undertake a specialist investigation and assessment to identify any remedial measures required to deal with ground instability. It may also be appropriate to carry out monitoring after the development has taken place. Ultimately it is the responsibility of the developer to ensure that land is safe and suitable for development. Whilst the Department will try to ensure that a development will not be put at unacceptable risk, the subsequent liability for safe development and secure occupancy of a site rests with the developer and / or landowner."

EP28 - Provides advice on development which would be at risk from ground instability, and reads:

"Development which would be at risk from ground instability or which would increase the risk from ground instability elsewhere will not be permitted unless appropriate precautions have been taken."

EP42 - Provides advice on the impact of new development on the character and identity of a site and its surroundings;

3.4 The advice contained in the following sections in the Isle of Man Residential Design Guide - Adopted July, 20321, are also of relevance. Namely:

- Section 2.0 - Sustainable Construction
 - 2.2 Construction Materials
 - 2.3 Building Design
 - 2.4 Climate Change Resilience
 - 2.5 Contributing to the Local Environment
 - 2.6 Pleasant, Healthy, Safe, and Inclusive Spaces

- Section 3.0 New Homes
 - 3.1 Local Distinctiveness
 - 3.2 Dwelling Types, Tenures and Uses
 - 3.3 Transport Issues
 - 3.4 Private and Public Space

Elements in other Sections of relevance are:

- 6.2 Trees
- 7.3 Loss of Light/Overshadowing
- 7.4 Overbearing Impact upon Outlook
- 7.5 Overlooking Resulting in a Loss of Privacy

4.0 PLANNING HISTORY (OLDEST FIRST)

4.1 Planning permission was sought and refused for the principle of the erection of a two bedroomed dwelling on the site under PA 87/0277. The reasons for refusal are unknown as the microfiche of the file is missing from the system. Planning permission was more recently submitted, PA 08/2321 for the erection of three dwellings on the site with access from Bay View Road and was refused for the following reasons:

"R 1.

Whilst the site lies within an area designated as Predominantly Residential on the Isle of Man Planning Scheme (Development Plan) Order 1982 and therefore there should be a presumption in favour of residential development in accordance with General Policy 2 of the Strategic Plan, in this case, the proposal would not respect the scale, form or landscaping of the buildings around the site as the building stretches from Bay View Road to Shore Road with an incongruous access and parking area alongside Bay View Road and a very tall frontage immediately alongside Shore Road, neither of which is sympathetic to the form of development in the vicinity. As such the proposal would not accord with General Policy 2b or 2c.

R 2.

The proposed building by virtue of its height in relation to Bay View Road would obscure and adversely affect public views of the sea contrary to General Policy 2e and obscure public views of the harbour contrary to the interests of public amenity and the charm and character of Port St. Mary.

R 3.

The provisions for car parking are inadequate in terms of numbers of spaces and it has not been demonstrated that the lack of sufficient parking would not result in an adverse impact on car parking within the vicinity, as required by Appendix Seven sub paragraph d of the Strategic Plan. In any case, the parking spaces are not sufficiently spaced to enable a full sized vehicle to be able to manoeuvre in and out within the site, exacerbating the deficiency in the number of spaces referred to above. Furthermore, insofar as it may be determined from the drawings, the provisions for access do not include satisfactory visibility for drivers of vehicles emerging from the site as the parking area and access are below the level of the

road and the inclusion of the boundary wall will obscure drivers' visibility. The proposal therefore fails to comply with General Policy 2h and 2i.

R 4.

The proposal contains no information about either the stability of the site or measures to be taken to ensure that the site can withstand the proposed works without compromising the stability of the cliff face onto which the building is to be constructed. As such the proposal fails to accord with General Policy 2l and Environment Policy 28.

R 5.

There is insufficient information included within the application for the Committee to be able to be satisfied that surface water from the site may be disposed of in an acceptable manner.

O 1.

It should be noted that there are inconsistencies in the plans submitted in respect of windows which are shown on the front elevation but not on the plans. In addition, the plans indicate that the existing wall at the front of the site is to be retained. It is most unlikely that in the construction of the buildings and the engineering of the site to accommodate the development, this wall could possibly be retained and as such it is extremely doubtful that the development could be undertaken as shown, if approved."

An application was then submitted for the erection of two dwellings under PA 09/01295/B. This was permitted by the Planning Committee and recommended for approval by the Inspector at appeal but refused by the acting Minister for the reason that:

"The proposed parking lay-by on the seaward side of the road would constitute an essential element of the overall development, without which the development would be inadequately provided with parking space; there are not in the submitted application any details of the retaining structure, the underlying foundation, or the precise dimensions of the lay-by; in the absence of such details, it is not possible to assess this element of the proposal; it is thus not possible to grant approval for either the lay-by or the complete development.

NOTE: This decision is without prejudice to the submission of a further application which includes full details of the proposed lay-by."

4.2 10/01892/B - Erection of two dwellings with integral garages and associated visitor parking - Permitted - 26.04.2011. Appeal Lodged 09.05.2011. Appeal Dismissed and PLANNING APPLICATION APPROVED 18.10.2011.

4.3 PA 09/00364/B - involved the development of a nearby site at nearby site at Rock Cottage Shore Road Underway Port St. Mary via the erection of two dwellings (comprising amendments to PA's 06/00868B and 07/00938B) including provision of a roadside terrace, alterations to bay and balconies, external staircase, drainage plan, revised rear access, and boundary walls and gates. The application was approved on 24/07/2009, and the dwellings have since been built.

5.0 REPRESENTATIONS

5.1 The 2008 application generated objections from 28 private individuals, Port St. Mary Commissioners, Department of Transport Highways and Traffic Division. Manx National Heritage raised no objections but made comments regarding the height of the roof and the amenities of those using the memorial garden. They suggested that the area of archaeological interest, commented on by others, is further north than this site.

5.2 In respect of this application the 2010 application there were objections from 9 private individuals.

5.3 These objectors raised a number of concerns including the instability of the site and risk of collapse of the bank, the scale and design of the buildings, additional traffic along Shore Road which cannot satisfactorily accommodate additional vehicles, inadequate car parking provided, the suitability of the shore-side parking, the loss of valuable green space and wildlife habitat, and the loss of the trees and potentially the elm which will be very close to the proposed building and excavation works. Some local residents had also experienced considerable periods of disturbance whilst other works have been undertaken along Shore Road.

5.4 The Hon Juan Watterson MHK wrote in to object to the application on the basis that it represents a green space which should not be developed and that the appearance of the development is inappropriate for its context

5.5 Comments on the 21/00547/B current application as originally submitted are outlined below. Subsequent to the receipt of the amended plans on 7/11/23, all previous consultees and third parties (neighbours) previously notified were re-notified with a 21 day period in which to comment. These are also added below the (where appropriate) original comments received:

5.6 Port St Mary Commissioners - (03.06.2021) - commented:

"The Board objected on the grounds that the proposed development is not in keeping with the neighbouring cottages which adversely affect the streetscape. The building is the wrong design in a conservation zone. It would sit poorly in the landscape, with the winged roof being out of keeping with the pitched roofs of surrounding properties. So are the overly large windows. The development would be vulnerable to flooding thus contravening Environmental Policy 13"

Port St Mary Commissioners - (30.09.2021) - commented: 'Noted' in respect of amended plans received.

No comments have been received from Port St Mary Commissioners in respect of the 7/11/23 amended plans.

5.7 DOI Highways - (09.06.2021) - commented:

"The application is acceptable in terms of highways, on taking account of the two parking spaces off Shore Road Underway as being available to serve this property and meeting the Strategic Plan minimum car parking requirements of two-spaces. Arguably these should be included in the red line due to the submission indicating that these are to be available for the proposed dwelling. Should this not be the case please re-consult us.

The proposed double garage measures approximately 5.6m x 5.2 m, below the Manual for Manx Roads minimum requirements of 6m x 6m. Notwithstanding, it would be suitable for one vehicle and the storage of bicycles and other items. The layby would facilitate turning to and from the garage. The garage should be retained for its stated purpose and an electric vehicle charging point should be considered. On provision of the garage a new access would be created and a Section 109(A) Highway Agreement would be necessary to form the connection. The visibility splays have been drawn to 17m in each direction from the garage. Whilst this is meeting the minimum requirement for the speed limit on Shore Road, visibility splays should be drawn to their full extent.

There should not be undue conflict with pedestrians. Whilst there would be an increase in traffic, this is not considered to have an excessive, adverse impact on walkers using the long

distance footpath. Accordingly, the proposal raises no significant highway safety issues to allow Highway Services to raise no opposition subject to use of the layby and conditions for the formation of a new access to serve the garage to accord with drawings No. 1522 001.01 and 1512 001.02 and garage retention. An advisory for a S109(A) Highway Agreement to apply too.

Recommendation: DNOC - Do not oppose subject to conditions"

DOI Highways - (24.09.2021) - commented:

"Highway Services note the amendments uploaded on 21st September 2021 and advise that we have no further comment to add to that those made on 9th June 2021."

DOI Highways - (23.11.2023) - commented:

"Previous Highways response dated 09/06/2021 had no objection to the submitted proposals. The revised plans primarily address planning concerns with minimal changes to access arrangements. Vehicular access to the ground floor garage is to remain in the same position, which achieves an acceptable visibility splay for 'the underway' road. The size of the garage means that bicycle storage can still be accommodated internally. The planning application originally submitted outlined that permission for the parking bays opposite the site is still extant and approval is not required within this application, despite being integral to the parking provision of the application. Provided the parking bays are constructed, these along with the garage parking will provide sufficient off-street parking to meet the Strategic Plan minimum requirement.

Highways Development Control continue to raise no objection to the proposal subject to the construction and use of the layby opposite. The Applicant is advised that a S109(A) Highway Agreement is needed after the grant of planning consent.

Recommendation: DNOC - Do not oppose subject to conditions"

5.8 No comments have been received from DOI Highways in respect of the 7/11/23 amended plans.

5.9 DOI - Flood Risk Management Division - commented on 4 separate occasions -

(08.06.2021) - "Do not oppose"

(12.10.2021) - "DEFER - Please provide a detailed Flood Risk Assessment"

(09.12.2021) - "OPPOSE - The results of the submitted Flood Risk Assessment are not acceptable. FRM require a 1in 200 + 30% risk assessment and that it will (exceed) an estimated freeboard of 600mm. The FRA does not address emergency exit during a major weather event nor the effects of overtopping. Flood maps are currently being commissioned by the Flood Management Division to model the effects of costal overtopping."

(17.02.2022). "Do not oppose subject to condition(s)

FMD recommend that the finished ground floor level be set at 600mm above the 1 in 200 plus climate change flood level of 4.79mAD02. In line with industry guidance."

5.10 No comments have been received from DOI Flood Risk Management Division in respect of the 7/11/23 amended plans.

5.11 DEFA- Forestry - (15/06/2021) commented:

"I would like to make the following comments in relation to application 21/00547/B (Land in front of Bay View Hotel) on behalf of the Agriculture and Lands Directorate of DEFA.

The large elm tree on the northern side of the plot, adjacent to the neighbouring property, Willow Cottage, is a prominent feature in the landscape when viewed from the Underway and the harbour. It contributes to the character of the area and has a high amenity value. Due to its size, however, it is likely to be viewed as overbearing by the current (or future) residents of Willow Cottage; the tree shades the property and is likely to cause apprehension due to a perceived risk of failure, which would cause damage to the property. Long term retention could be viable, but to manage the aforementioned conflicts, a phased crown reduction would be required with an on-going cycle of maintenance to control the size of the tree and reduce its impact on the neighbouring property.

It is worth noting that the rooting area to the north is restricted by the retaining wall and steps so the root protection area (BS5837:2012) for this elm tree should be off set in to the site.

The elm tree is shown as being retained on the proposed site plan (drawing 001.01) but I think that given the scale of the proposed construction project and the excavation required, successfully retaining this tree is not a realistic prospect, to the extent that I wouldn't even request an impact assessment, protection plan or method statement, as it would be a waste of time and unnecessary expense. It is my view that there are 2 options available to you as the planning authority:

1. Accept that removal of the tree is highly likely and base your assessment of the impact of the proposed development on this basis.
2. Recommend to the applicant/agent that the footprint of the building is reduced to increase the distance between the building and tree and improve the chances of successfully retaining it in the long term; request amended plans, an arboricultural impact assessment and a tree protection plan to support the application.

I do not object to the removal of other small scrubby trees on the site."

5.12 DEFA - Biodiversity Policy Officer - has commented on 4 separate occasions:

(15/06/2021)

Aerial photographs and photographs provided with the application show that this plot is currently an area of shrubs, grass and trees in a relatively built up area in Port St Mary. The land will be supporting a variety of biodiversity such as feeding, sheltering and breeding birds and invertebrates, and providing a refuge for wildlife in an otherwise urban area. Urban vegetation has the additional benefits of absorbing noise, reducing temperatures through shading, reducing atmospheric pollution and absorbing and storing carbon; and in this location, providing a filter for pollutant runoff to the neighbouring Baie Ny Carrickey Marine Nature Reserve, benefits for people, wildlife and the environment. Though a nesting bird survey has not been undertaken (and is not requested), the area is also likely to currently support nesting house sparrows, which are protected under Schedule 1 of the Wildlife Act 1990, and are a species listed on the UK Red List of Conservation Concern that require urgent conservation action. The new dwelling will take up almost the entirety of the plot and leave virtually no green space on site and therefore, as presented, the development will result in the loss of nature conservation value, contrary to Strategic Policy 4 of the Isle of Man Strategic Plan and Action 21 of the Biodiversity Strategy.

Strategic Objective 3.3 Environment (b) of the Isle of Man Strategic Plan 2016 is 'to protect, maintain, and enhance the built and natural environment (including biodiversity)' and Strategic Policy 4 (b) is 'protect or enhance the nature conservation and landscape quality of urban as well as rural areas'.

In 2013 the Isle of Man Government signed up to the International Convention of Biological Diversity (CBD) and in 2015 published a Biodiversity Strategy 2015 to 2025 that set out the aims, objectives and actions to meet the obligations of the CBD. Habitat loss action 21 under the Biodiversity Strategy is 'DEFA will continue to promote a policy of 'no net loss' for semi-natural Manx habitats and species and ensure that unavoidable loss is replaced or effectively compensated for'.

Therefore the Ecosystem Policy Team request that prior to determination of the application, the applicant provides details and drawings (including location and specifications) of proportionate ecological mitigation/compensation which will be integrated onto site to make up for the loss of green space. Alternatively, a condition should be secured for this applicant to provide this information to Planning for written approval prior to works commencing on site.

We recommend that the following measures are incorporated on site:

Swift nest bricks be installed high up underneath the eaves of the eastern northern/northern. Swift bricks can be substituted for normal building bricks and therefore the visual impact will be minimal. If installed on the northern elevation the boxes should be located as far east as possible to allow a suitable height between the nest bricks and the ground (see approximate locations for the swift bricks marked in red in the following image). Swifts are communal nesters and therefore we recommend more than 1 nest brick be installed on the property;

- House sparrow nest bricks be installed on the eastern or northern elevation of the new property at least 2-3m above the ground. Sparrow bricks can be substituted for normal building bricks and therefore the visual impact will be minimal but these can be placed lower down than swift nest bricks. House sparrows are communal nesters and therefore we recommend more than 1 nest brick be installed on the property;

Bat bricks be installed high up on the southern elevation of the new property, away from artificial light from windows. Bat bricks can be substituted for normal building bricks and therefore the visual impact will be minimal (see approximate locations for the bat bricks marked in blue in the following image);

Bee bricks be installed on the southern elevation of the new property at least 1.5m above ground level.

The installation of integrated bird and box bricks is much more preferable to the use of boxes as they are a lot more durable and therefore provide long-term mitigation. Due to the size of the proposed property it does not look possible to include any replacement native planting as mitigation unless a green roof were considered. The above recommended measures do not provide direct mitigation, which would only be possible with suitable replanting, but the integration of bat and bird bricks would provide alternative but acceptable wildlife opportunities on site.

The Ecosystem Policy team do not object to the development of this area. However, green space is vitally important and therefore where it will be lost it is entirely appropriate and in line with current government policy, to provide mitigation or compensation.

DEFA - Biodiversity Policy Officer - (23/09/2021)

"The Ecosystem Policy Team can confirm that we are happy with the details contained within the ADD Bird Bat and Bee Housing Sections and Views 21 Sep 21 and request that these plans are made a condition of approval.

We advise that applicant that all boxes should be made from untreated wood. The inside surfaces of the bat box (any surface likely to be in contact with bats, including the opening) should be 'roughened' in random directions or grooves be cut into the wood horizontally to create surfaces that bats can readily cling too. We also recommend that wood partitions are installed inside the bat box which are attached to the top and sides of the box, to create narrow chambers for bats (many species are crevice dwelling and like front and back contact)."

DEFA - Biodiversity Policy Officer - (08/11/2023)

"Prior to this latest revision, the proposals for ecological mitigation included the installation of 3 bat boxes, 4 bird boxes and 1 bee brick. However, the updated Elevations Finishes and Provisions drawings now show only 6 integrated bird bricks and no bat or bee bricks, we are also no longer entirely content with the locations of these, as they are either fairly low to the ground on the west elevation or above windows on the east elevation.

We would be content with a total of 4 integrated universal nest bricks as long as they are moved so they are not directly above the windows - to deal with this issue the boxes could be slightly repositioned on the east elevation or moved under the fascia on the north elevation, again not above windows. However, we recommend that the 2 integrated bird bricks shown on the west elevations are changed to integrated bat boxes and moved so that they are not as low to the ground. Repositioning to the south elevation would be appropriate. As per the previous plans, we would also request that an integrated bee brick is also installed somewhere on site, ideally on a southerly elevation.

We would be content for these details to be provided prior to determination of this application or for a condition on approval be secured for no works to commence unless a bat, bird and bee brick plan has been submitted to Planning and approved in writing."

DEFA - Biodiversity Policy Officer - (16/11/2023)

"In addition to the Ecosystem Policy Team's previous response to this application, we also request that a condition is secured for no works to commence unless a Construction Environmental Management Plan (CEMP) has been submitted to Planning and approved in writing.

We are requesting this because Baie Ny Carrickey Marine Nature Reserve (MNR) is located only 15m to the east of the development site, and so there is potential for damage to the MNR, should responsible construction practises not be implemented. The CEMP should include measures to be put in place to prevent damage and disturbance to the MNR, such as the use of spill kits, secure storage areas away from the MNR, biodegradable oils, use of oil and silt interceptors, good waste management and litter prevention measures etc. The CEMP should also include measures for the protection of nesting birds, such as the timing of vegetation removal and pre-clearance checks."

THIRD PARTY REPRESENTATIONS

5.13 The following Third Party Representations to both the originally submitted application and the 07/11/2023 amendments have been received. All raise objection to the proposed development on the following grounds:

Willow Cottage, Shore Way. PSM - (14/06/2021) - (Précised comments) -

1. The scale of the development is so big it will be overbearing in relation to Willow Cottage. Exterior design is a deliberate attempt to 'be different' to the nearby terrace but

would ruin the aspect of Willow Terrace which appears on many photographs of PSM as a peaceful fishing port.

2. The ownership of the beach parking area is disputed. Since development is presaged on resolving this issue the granting of planning permission should be delayed until then.

3. The garage would abut directly onto the road and vehicles would reverse into the road "blind". This is an obvious danger to pedestrians especially during fine weather when this part of the Underway is a busy recreational area. If residents choose to park outside the garage this would also exacerbate present parking problems.

4. The Elm tree shown a short distance from the north wall could easily be disturbed resulting in the destruction of the tree, one of the last significant plant growths in the port.

5. The door and window shown on plan (view C) northern gable end, would look directly into my bedroom.

6. The planning application should provide evidence of flood mitigation due to the close proximity of the development to the sea especially given the photographic evidence available showing the extent of flood during winter storms.

Willow Cottage, Shore Way. PSM - (12/11/2023) - comments:

"My comments on the earlier planning application on this plot are further exasperated by some of the amendments shown on the latest planning application.

The size of the proposed building is totally out of scale with my cottage next door and the rest of Willow Terrace, The Underway.

The proposed colour is in no way sympathetic to the surrounding properties, in short, it would be a massive eyesore on the Raad Ny Foillan.

The ground works in preparation for the building may have damaging effects on my cottage and surrounding area because of the unstable geology involved. The history of landslips in the Port should make this obvious. The large tree, one of the last in the Port landscape, would be unlikely to survive the extensive ground works that would be necessary on the fragile slope up the main road artery through the Port. Any modification to the tree canopy or its stability could threaten my cottage.

I'm assuming that the parking area on the beach, the ownership of which I am told is in dispute, is not included in the new PA.

The number of windows on the north elevation has increased to nine and most of them will overlook the bedroom on the south elevation of my cottage.

The proposed garage and possibly front door will be flooded several times during each winter resulting from the high tides. Photographs and YouTube videos are available to support this.

I hope that consideration of this planning application will include thought about the duty of care to neighbouring properties of such building developments."

Brier Cottage, 3 Willow Terrace, PSM - (23/06/2021)

"Major concerns on development:

1) Concerns to danger of collapse of main access road immediately above the proposed development. There is a real risk to this as demonstrated by the historic collapse and major

Public Expenditure to repair the cliff collapse and subsequent impassable road. This road is the ONLY access to the lower village, and harbour, including access to the PSM Lifeboat. I can show photographs of the collapse that occurred in the 1990's because of attempted construction on adjacent property when the cliff face was excavated.

2) Major disruption to all those living on the underway and especially Willow terrace and neighbouring properties which are beyond the proposed development.

3) Concern for safety of pedestrians on what is part of the Raad Ny Foillan due to construction traffic and plant.

4) Obstruction to Emergency Services, especially Fire and Ambulance to the three properties that make up Willow Terrace and the three additional properties beyond. This represents a significant threat to life."

The Hon Juan Watterson MHK - (10/11/2023)

I have just examined the plans for the above application, and should point out that I have no objection in principle to some form of development on this site.

I find the proposed dwelling abhorrent in the context of the Shore Road Underway. It is completely out of keeping with other dwellings on the road. Its scale and mass are overbearing in the context of the neighbouring cottages. The colours and building materials are unsympathetic to the surrounding area, which are surrounded by rendered and un-rendered stone built houses in what I believe is a conservation zone.

For the reasons above, I have taken the rare step of writing to you in objection to this application.

Dr Michelle E K Haywood MHK for Rushen - (24/11/2023)

"I am writing in regards to the application to construct a single dwelling on Shore Road Underway in Port St Mary.

I consider that the proposed building is too large in scale. The developer claims that the height of the new building is within the extant permission, and equivalent to that at Rock Cottage, and the new house next to Rock Cottage. However, the width of the gable fronted wings of this proposal is much greater. This means that the roof pitches are shallower. They do not have the same elegance of the surrounding buildings of similar height. The result is a much larger mass of building that is out of character with surrounding buildings. Each 'wing' of the proposal is significantly wider than the individual cottages that make up Willow Terrace. The consequence is that this proposal is overbearing and intrusive.

As noted in the Conservation Area Appraisal (2009), the buildings around the harbour related to fishing activity, and are mostly built of Manx stone, possibly with rendering. The proposed structure has a mix of finishes including grey aluminium windows, vertical cladding and on the sides of the building the dark grey finish. The white render, whilst matching the buildings of Primrose Terrace (above) cause this development to become much more prominent. This is clearly jarring in comparison to the warm stone finishes on surrounding buildings. White window frames are common along Willow Terrace. The Conservation Area Appraisal advises that the 'use of inappropriate building materials should be discouraged', and I believe this is such a case.

As the building is so large in mass, the sides of the building would project forward enough to become intrusive into the streetscape. The view into the conservation area will be overwhelmed by this proposal. I am concerned that the windows on the North elevation will

look directly onto Willow Terrace and cause loss of privacy. The windows generally are too tall in comparison to the nearby buildings.

The proposed building sits well forward of the building line that extends from Willow Terrace. In Willow Terrace the houses all have a small garden or yard in front of them, whereas the proposed building would run adjacent to the road. This increases the dominance that this building would have over the streetscape at this location. The position of the proposal south of Willow Terrace will cause overshadowing of those buildings due to the height and forward position of the development.

This proposal is in the heart of the Conservation Area and would affect the views across the Conservation Area from both Chapel Beach and the Harbour areas, plus for vessels arriving at the port.

The boundary of this site is the old sea wall (which was damaged in a landslip that occurred during a previous attempt at excavating this site. It is not clear from the plans that have been submitted whether this proposal extends beyond the site boundary, although it would appear that it runs to the outer edge of the sea wall, and possibly a little beyond on the South front edge. I note that Highways have required a S109 agreement. This road is narrow and it is imperative that access is maintained throughout the construction but also afterwards. I would expect very robust planning enforcement to ensure that this development didn't 'creep' onto the roadway which would have the effect of forever restricting access for emergency services, delivery vehicles and residents.

Although the proposal notes that the previous attempts at excavating the site caused minor landslips, I have serious concerns about the stability of this site. There have been previous landslides at Happy Valley (Chapel Bay) and Perwick Bay. There are a number of underground water courses around Port St Mary that undermine and destabilise the Broughs. After the disastrous landslide at Laxey, which was caused by excavation of the base of the cliff, I have huge concerns that if this development was permitted, a similar landslide would effectively cut off the southern end of Port St Mary, the working harbour and the residents.

There is already evidence that the existing pathway that runs to the North of the site is shifting, tipping and cracking. It is important that Public Rights of Way are not compromised during or subsequent to any development of this site.

I realise that the construction methods are not a material planning consideration but I wish it to be on record that local knowledge of this site and the surrounding area is that the overburden is likely to slip during construction. The thin strip of land to the west of the site (former pub beer garden) is likely to be lost if a landslide occurs. This would undermine the carriageway above the site which is used for buses, refrigerated lorries serving the seafood processing factories, residents and emergency vehicles. Permitting development in coastal locations such as this one is a very risky thing to do. The wider economic impact if this construction goes wrong would be catastrophic for Port St Mary.

In summary I wish to object to this proposal on the grounds that the new building would be detrimental to the Conservation Area, with inappropriate materials, a size that is out of keeping with the existing buildings and a siting that is too far forward from the building line. It would have a detrimental visual impact on the Underway and overshadow Willow Terrace."

'Baycrest', 3 Primrose Terrace, PSM - (29/11/23) - Précised comments -

Whilst the development may appeal to some, the sea actually lapping against the building is less desirable. There is the question of the practicality of excavating the existing 50 degrees

slope to accommodate the building footprint. Concerns remain as expressed to the PSM Commissioners about the possible collapse of the cliff face and road above and the adequacy of the design and methodology for mitigating the risk of the cliff collapsing.

Some years ago some excavation in the cliff face to the rear of the Willow Terrace properties resulted in the partial collapse of Bay View Road. A similar collapse behind the PA 21/00547/B site would also result in the closure of vehicular and foot traffic to a significant area of the village, over a prolonged period.

We are sure that Building Control will be fully seized of the import of the decision and the development will need to emphasise the measures put forward to mitigate against landslip, to secure the compliance of their contractors, and provide insurance against all possible losses. A failure of any element in the process would impact severely on the village and would inevitably heavily involve Government.

'Avoca', 7 Primrose Terrace, Port St Mary, (30/11/2023) précised comments as follows:

Visual Impact - the property would be a vast and overbearing structure overshadowing Willow Terrace and other Manx cottage properties to the north, all of vernacular architecture on the Underway and Bay View Road, above.

The property would be a carbuncle when viewed from the inner harbour.

The proposals demonstrate the inappropriate use of cladding (no Manx stone) and the over-use of glass, resulting in something akin to a greenhouse!

Highway safety/Wider economic issues:

The development sits so far forward of Willow Terrace building line that garage access would be directly onto a Heritage Trail (Raad Ny Foillan). The trail is much used by pedestrians and animals and such access could present safety problems. There are natural springs in the area and there are purported to be 32 landslips on Bay View Road during the 1990's; and, Happy Valley in 2010. There is a fault line running across this area of land. Preparatory ground works for this development become ever more critical.

Concerns to danger of collapse of main access road immediately above the proposed development and severance of the main arterial route to all points south of the Bay View Hotel Beer Garden would be put in jeopardy.

. There is a real risk to this as demonstrated by the historic collapse and major Public Expenditure to repair the cliff collapse and subsequent impassable road. This road is the ONLY access to the lower village, and harbour, including access to the PSM Lifeboat. I can show photographs of the collapse that occurred in the 1990's because of attempted construction on adjacent property when the cliff face was excavated.

This would impact on those residing south of the site and could prevent Emergency Services, especially Fire and Ambulance, plus lifeboat services and fishermen from accessing the area impacting on all commerce in the area.

Potential loss of the remembrance Garden along with the linking steps from Bay View Road down to The Underway.

The steps are extremely uneven.

There are defects in the retaining wall for Bay View Road at the top of the steps and the land slipping can be seen when descending the steps opposite the Old Police Station from Bay View Road down to The Underway.

to the three properties that make up Willow Terrace and the three additional properties beyond. This represents a significant threat to life.

No Structural Engineer can give a 100% assurance that excavation of h cliff as proposed would not result in a landslip/destabilisation of the roadway of Bay View Road above the site.

There is one remaining tree on this plot, unique in the bay. It should be preserved at all costs. Its close proximity to the proposed pathways and gable end construction, puts this into question.

REPRESENTATIONS ON BEHALF OF THE APPLICANT

5.15 The applicants have responded to the concerns raised by local residents in letters dated 30/06/2021; and, 06/12/2023. The contents of the 30/6/2021 letter can be viewed on line. The Case Officer considers that the comments outlined in the letter dated 06/12/2023 are more up to date, and reflect comments received following consultation on the amended plans, and are, therefore, consider to be up to date. These comments are rehearsed in précised form as follows:

1 Regarding the above application, we have now had an opportunity to review those further representations received by your Department:—

Environment Directorate 8th & 16th Nov 2023
Hon. Members for Rushen 10th & 24th Nov 2023
Highway Services 23rd Nov 2023
Owner of Willow Cottage 13th Nov 2023
Owner of 3 Primrose Terrace 29th Nov 2023

2 Our previous responses to representations is dated 30th June 2021.

3 We have since discussed our application with assigned officers, to resolve any outstanding concerns, and to incorporate any recommended improvements to the proposal (over that originally submitted).

4 Changes were subsequently detailed in our letter of 6th November 2023.

PROCEDURAL MATTERS

5 The Operational Policy on Interested Person Status 2021 establishes the qualifying criteria for those parties who may be afforded interested person status. Criterion 2.0(B) sets a distance of 20m, within which parties must own or occupy land to qualify. This would appear not to extend to Brier Cottage, or No. 3 Primrose Terrace. We note the contents of representations by the Honourable Members for Rushen, however it is not clear on whose behalf these are written — if not their own, then which of their constituents.

SCALE

6 It has been confirmed by your Department (see appendix K of the Planning Statement submitted in support of PA21/00547/B) that lawful commencement under PA 10/01892/B is established. The site therefore benefits from extant approval for two semi-detached dwellings. The respective approval notice (see appendix H of the Planning Statement submitted in support of PA21/00547/B) lists drawing P10 (Streetscape), demonstrating the scale of development already deemed acceptable for the site by your Department (and which

may still be implemented in any event). The Area Plan for the South introduced Landscape Proposal 7, which states:—

"The site in front of the Bay View Hotel on Bay View Road creates an important space between the buildings allowing for views across the bay and beyond. To ensure the continuation of this view no building on the Shore Road will be permitted to exceed the existing road level."

7 Such matter was also the subject of two Independent Inspectors' reports (refer to appendices F and I of the Planning Statement submitted in support of PA21/00547/B). The latter states (at 76):-

"I find no basis for disagreeing with the previous Inspector's assessment that the design of the proposed houses would not be out of keeping with other buildings or visually incongruous in the street scene, even though the houses would be slightly higher than the adjacent cottages. The context which led the last Inspector to make that assessment - that there is a mixture of buildings along Shore Road in terms of ages, styles and heights, including both old buildings and modern dwellings with integral garages - remains the same."

8 We note that Independent Inspectors' reports are established to constitute a material consideration under S10 of the Town and Country Planning Act 1999. We cannot therefore agree with those representations that call the proposal's scale into question, given expert opinions available to the contrary. The Proposal also remains in accordance with Landscape Policy 7.

VISUAL IMPACT

9 The scheme as originally submitted consisted of predominantly white rendered walls (as the extant approval does). We have subsequently amended the scheme to incorporate a slated, pitched roof form, with areas of stone and timber cladding boards to the front elevation. Render is now shown only to limited parts of the front elevation, a far smaller extent than that permitted in the extant approval. We now propose slate cladding to the north and south elevations to further soften the proposal's appearance, in reference to a Manx vernacular.

10 Representations refer to the area within which the site is situated as a Conservation Area (CA). It was previously concluded by an Independent Inspector (at S74 of their report):—

"With the background of the existing and proposed zoning, there is no new evidence in this appeal which would justify reaching a different view to that of the previous Inspector that the current nature of the site cannot be regarded as giving this part of Port St. Mary a sense of place. I concur with his view that there is no real conflict between the proposed development and Environment Policy 42 of the Strategic Plan. I also note that, while the site would be part of a Conservation Area proposed in the MD Southern Area Plan, it is still the case that this designation has yet to be confirmed. Consequently, little weight can be attached to that matter."

11 As was foreseen, the area was not subsequently designated a CA in the Area Plan for the South (or otherwise). Even if designated in future (which it was previously noted cannot be assumed) - We refer to S25 of appendix F of the Planning Statement submitted in support of PA 21/00547/B., the current proposal clearly enhances the area's character to a greater degree than the extant approval.

12 Representations also question the proposal's colour. The natural materials proposed are the same as those found in buildings in the immediate vicinity. They will therefore be very similar in colour (if not identical). We are therefore unsure if those making representation are

fully acquainted with the proposal as currently drawn but, for the avoidance of doubt, drawing 1512-001.05 (revision X) schedules the proposed materials, including natural timber, slate, and stone.

STRUCTURAL ENGINEERING

13 Representations correctly note that structural design is not a material consideration under the Act; it is controlled under separate legislation. We nevertheless take the matter very seriously. Our submissions note that the current proposal's structural strategy minimises the excavations required (to a far greater degree than the extant approval, which had itself already been deemed feasible). Those preparing the proposal's structural design will possess the appropriate professional qualifications and necessary experience.

PRIVACY

14 Willow Cottage questions the extent of glazing to the north elevation. Whereas a simpler elevation was previously put before officers, your Department advocated for a vertical emphasis to be introduced, a recommendation we complied with. The site has been designated for residential use since 1982, establishing a reasonable expectation (before the south-facing windows to Willow Cottage were installed) that the site would be developed. It remains within Willow Cottage's control to remedy any privacy concerns they may have by pragmatic means, such as the installation of obscured glazing or curtains. It is also open to your Department to approve our application subject to a condition that certain north-facing windows be obscured.

BIODIVERSITY

15 We note the biodiversity officer's representation concerning the precise positioning of the bird boxes, bat boxes and bee bricks. We also note that a CEMP is now requested, given the proximity of the Marine Nature Reserve. We are confident that the officer's requirements can be incorporated to their satisfaction, and we are not averse to an appropriately worded condition to approval.

CONCLUSION

16 We trust the above to be self-explanatory, however should any further matter arise, or any clarification be required, we would invite the Department in the first instance to contact the undersigned at this office without hesitation.

7.0 ASSESSMENT

7.1 The fundamental issues to consider in the assessment of this planning application are:

- i. The principle of the development (GP 2);
- ii. The visual impact of the proposed development (GP2 b & c, & EP 42);
- iii. The impact upon the amenities (overlooking, loss of light; over bearing impact, privacy and visual amenity) of the neighbouring properties (GP2 g); and
- iv. Whether there would be any adverse impact on highway safety (GP2 (h & i).

7.2 The issues in this case are whether the proposed new dwelling in terms of its the size, scale, massing, plot coverage and overall architecture is suitable for this site in terms of the impact it would have on the character of the streetscene and the site's surroundings. In addition, consideration should be given to whether it would have an acceptable impact on the living conditions of those in neighbouring and nearby dwellings; the impact it would have on the retained elm tree on the site; and, finally whether the proposed vehicular access, garaging and parking arrangements involving the 3 No. proposed parking spaces on the shore side of the Underway/shore road opposite the site would be satisfactory in terms of highway safety.

7.3 In the consideration of these proposals the concerns raised regarding the stability and security of the cliff face forming part of the site area below Bay View Road, and the engineering operations that would need to be undertaken to accommodate the new dwelling on the site are a matter for consideration by the DEFA Building Control Team in conjunction with the applicants on-site construction team and engineers. The consideration of the planning application is concerned with matters of land-use as opposed to the feasibility of constructing the development. The applicants have provided details of their proposed structural strategy at Section 6 of the Planning Statement submitted in support of the application.

7.4 Within such areas as this which are designated as mixed-use land use areas, there is usually a presumption in favour of development. The sites planning history indicates that there have been a number of previous applications affecting the site, culminating in the approval of PA 10/01892/B for the erection of two dwellings with integral garages and associated visitor parking. This was initially permitted by the Planning Committee, although a subsequent Appeal was lodged, considered, dismissed, and then approved by the Minister on 18 October, 2011. Therefore, the principle for the erection of two dwellings on the site has previously been established. This permission remains extant as the car parking area on the sea shore side of Underway was installed, this was carried out before the 4-year time limit to implement the planning permission expired on 17/10/2014, and was confirmed as installed by the DEFA Planning Officers. This means that there is now no time limit for the completion of the works and so the fall-back position is that the previously approved development could be fully built out.

7.5 It is further noted that another planning application Ref: 09/00364/B sought permission for the erection of a pair of dwellings on the site of Rock Cottage, Shore Road Underway PSM. The style, scale, bulk and design of these approved dwellings is not dissimilar to the previously approved pair of dwellings on the PA 10/01892/B application site, and the single dwelling and garage now proposed by PA 21/00547/B.

7.6 The requirements of General Policy 2 of the Strategic Plan are outlined in the Planning policies at Section 3.0 of this report. General Policy 2 states that:

"Development which is in accordance with the land use zoning and proposals in the appropriate Area Plan and with other policies of this Strategic Plan will normally be permitted, provided that the development:

- a) is in accordance with the design brief in the Area Plan where there is such a brief;
- b) respects the site and surroundings in terms of the siting, layout, scale, form, design and landscaping of buildings and the space around them;
- c) does not affect adversely the character of the surrounding landscape or townscape;
- d) does not adversely affect the protected wildlife or locally important habitats on the site or adjacent land, including water courses;
- e) does not affect adversely public views of the sea;
- f) incorporates where possible existing topography and landscape features, particularly trees and sod banks;
- g) does not affect adversely the amenity of local residents or the character of the locality;
- h) provides satisfactory amenity standards in itself, including where appropriate safe and convenient access for all highway users, together with adequate parking, servicing and manoeuvring space;
- i) does not have an adverse effect on road safety or traffic flows on the local highways;
- j) can be provided with all necessary services;
- k) does not prejudice the use or development of adjoining land in accordance with the appropriate Area Plan;

l) is not on contaminated land or subject to unreasonable risk of erosion or flooding;
m) takes account of community and personal safety and security in the design of buildings and the spaces around them; and
n) is designed having due regard to best practice in reducing energy consumption."

7.7 In this case there is no design brief for the site (2a).

7.8 The environment surrounding the site comprises a variety of dwellings in terms of age, height, bulk, scale, style, and finish. The proposed dwelling take its lead from new properties to the north (See PA09/00364/B) and it is considered that they would not be out of keeping with the surroundings. Whilst a small number of trees and some vegetation are to be removed as part of the proposed development, this is not protected and the site could be cleared without the need for permission from any authority. In the previous application it was considered that the loss of the site was not objectionable on the basis of the loss of habitat despite objections from local residents to this effect. (2b, 2c, 2d, 2f). Indeed, there is no evidence from Department of Environment, Food and Agriculture that the site is worthy of protection for ecological reasons.

7.9 The DEFA Biodiversity Policy Officer has requested that the Biodiversity Team would be content with a total of 4 integrated universal nest bricks as long as they are moved so they are not directly above the windows which could be resolved by the boxes being slightly repositioned on the east elevation or moved under the fascia on the north elevation, again not above windows. The recommendation that the 2 integrated bird bricks shown on the west elevations be changed to integrated bat boxes and moved so that they are not as low to the ground, is also noted, as is their repositioning to the south elevation. The request that an integrated bee brick is also installed somewhere on site, ideally on a southerly elevation, is also noted. These aspects of the development can be secured by condition. In addition, a condition requiring that no works commence unless a Construction Environmental Management Plan (CEMP) has been submitted to Planning and approved in writing, is also considered appropriate for the site as this would cover construction and delivery hours, materials storage areas, dust and noise suppression measures, as well as traffic controls.

7.10 The reason for the CEMP put forward by the Biodiversity Team is because Baie Ny Carrickey Marine Nature Reserve (MNR) is located only 15m to the east of the development site, and so there is potential for damage to the MNR, should responsible construction practises not be implemented. The requirement for a CEMP is relevant to the development proposed and is acceptable in planning terms. The measures that the CEMP would put in place to prevent damage and disturbance to the MNR, such as the use of spill kits, secure storage areas away from the MNR, use of biodegradable oils, use of oil and silt interceptors, good waste management and litter prevention measures etc. and measures for the protection of nesting birds, such as the timing of vegetation removal and pre-clearance checks, should assist in enabling a successful construction phase and post development assimilation phase to occur. CEMP conditions are often assumed to be able to protect neighbours amenities, such as on site construction hours and delivery times etc. However, such measures are difficult to enforce, because unless the site is continually monitored during the construction phase, compliance cannot be ensured. Therefore, it would not be reasonable to add such requirements as part of a CEMP condition.

7.11 Whilst it is also noted that Permitted Development rights permitting works compounds adjacent to any sites with planning approval as outlined in the provisions of Schedule 1, Class A, of the Town and Country Planning (Permitted Development) (Temporary Use or Development) Order 2015, in the case the MNR, this has its own protection as Article 5, Part 6 (2) of the same Order specifies that: "No part of the development may be undertaken — (a) in, on, under or within an Area of Special Scientific Interest (ASSI), an Area of Special

Protection or any other sites as designated under the Wildlife Act 1990". The MNR benefits from such a designation.

7.12 The development would be sited close to the cliff side and would be set below the level of Bay View Road. Whilst it would be seen from the War Memorial and its associated Remembrance Garden Area which is designated as Public Open Space, it would not otherwise obscure public views of the sea from Bay View Road. (2e)

7.13 The development will not directly adversely affect the amenities of local residents in that it follows the line of built development along Shore Road. Whilst the view of the site will change, there is no over-riding importance of the site for ecological or other value which would justify refusing the principle of developing this land for residential purposes, bearing in mind that the area is designated as 'Mixed Use' on the extant plan. See Map 7 - Port Erin/Port St Mary/Ballafesson - in the Area Plan for the South (2013). Similarly, it is considered that the development will not adversely affect public amenities (2g)

7.14 The development will provide sufficient car parking and amenity space and has a good outlook (2h).

7.15 There is no indication from the highway authority that the proposal is deficient (2i) nor is there any indication that the development cannot be satisfactorily serviced. The question of land ownership of the part of the foreshore on the opposite side of the Underway has been mentioned, however, no evidence to counter the applicant's assertion that this area of the site is within their control has been adduced. (2j)

7.16 The proposal would not prejudice the use or development of adjoining land in accordance with the appropriate Area Plan (2k);

7.17 The site lies within an area where there may be a risk of flooding as shown on the Isle of Man indicative Flood Risk map (2017), and the applicant has consulted the DoI Flood Risk Management Team (FMD) who previously recommended that the building is raised in level to accommodate this. FMD recommended that the finished ground floor level be set at 600mm above the 1 in 200 plus climate change flood level of 4.79mAD02. In line with industry guidance. The applicants have taken this advice on board in producing the revised design as submitted on 7/11/23. However, the 600mm height above 4.79m AD02 would compromise the inclusion of the proposed vehicular access, and the internal floor height above AD02 proposed is 300mm. A 600mm height difference would very likely result in the building being higher than proposed and would thus fit less well in the streetscene. The risk of flooding is not to other properties but contained within the building and the applicant has indicated that he is prepared to accept this risk of flooding which would be to the ground floor garage, hall and a sitting room and laundry (GP2l and Environment Policy 10).

7.18 The Inspector reporting on the PA 09/01295/B appeal application did not accept that the risk of flooding or the absence of a flood risk report, was a reason to refuse the application. He stated "On balance, bearing in mind that other new dwellings have been approved along Shore Road and that the proposal would not cause any additional flood risk to other properties, I find that the possible risk of flooding would fall within an acceptable limit. On that basis the proposal would comply with Environmental Policies 10-13 of the Strategic Plan" (see paragraph 37 of the Inspectors Report).

7.19 There is no indication that the proposal does not take account of community and personal safety and security in the design of building and the spaces around it or that regard has not been had to best practice in reducing energy consumption which would also be taken into account in the application for approval under the Building Regulations.

7.20 Appendix Seven of the Strategic Plan sets out parking standards in respect of new residential development and states:

"New built residential development should be provided with two parking spaces per dwelling, at least one of which should be within the curtilage of the dwelling and behind the front of the dwelling, although the amount and location of parking will vary in respect of development such as terracing, apartments, and sheltered housing. In the case of town centre and previously developed sites, the Department will consider reducing this requirement having regard to:

- a) the location of the housing relative to public transport, employment and public amenities,
- b) the size of the dwelling,
- c) any restriction on the nature of the occupancy (such as sheltered housing) and
- d) the impact on the character and appearance of the surrounding area (See paragraph A.7.1).

This goes onto recommend that one space is provided for a one bedroomed apartment, 2 spaces for two or more bedrooms but that:

"These standards may be relaxed where development:

- a) would secure the re-use of a Registered Building or a building of architectural or historic interest; or
- b) would result in the preservation of a sensitive streetscape, or
- c) is otherwise of benefit to the character of a Conservation Area
- d) is within a reasonable distance of an existing or proposed bus route and it can be demonstrated a reduced level of parking will not result in unacceptable on street parking in the locality" (See paragraph A.7.6).

7.21 In this case the proposal makes provision for an integral garage providing two car spaces for the dwelling and an additional three spaces on the other side of the road, thus complying with the requirements of Appendix Seven.

7.22 Other policies within the Strategic Plan which have been referred to include Environment Policies 10 (as covered in paras 7.16 and 7.17), 11 and 13 which relate to flooding, Environment Policy 24 regarding Environmental Impact Assessments, Environment Policy 28 regarding unstable land and Environment Policy 42 which deals with areas of green space within built up areas.

7.23 Environment Policy 11 states "Coastal development will only be permitted where it would not:

- i) increase or transfer the risk of flooding or coastal erosion through its impact on natural coastal processes;
- ii) prejudice the capacity of the coast to form a natural sea defence; and
- iii) increase the need for additional coast protection works except where necessary to protect existing investment or development".

7.24 There is no indication that the development will prejudice any of the above.

7.25 Environment Policy 13 states: "Development which would result in an unacceptable risk from flooding, either on or off-site, will not be permitted." See earlier comments.

7.26 Environment Policy 24 states: "Development which is likely to have a significant effect on the environment will be required:

- i) to be accompanied by an Environmental Impact Assessment (EIS) in certain cases; and

ii) to be accompanied by suitable supporting environmental information in all other cases".

7.27 It is not accepted that the development will have a significant effect on the environment particularly bearing in mind the designation of the site on the extant plan. It is adequately supported by environmental information and no EIS is required.

7.28 Environment Policy 28 states: "Development which would be at risk from ground instability or which would increase the risk from ground instability elsewhere will not be permitted unless appropriate precautions have been taken". The plans have been drawn in consultation with a Structural Engineer and the structural stability of the site is taking into account during the consideration of the application for approval under the Building Regulations. The Inspector reporting on the previous application, states "The need to comply with building regulations would provide the "appropriate precautions" referred to in Environment Policy 28 of the Strategic Plan. Therefore the proposal would comply with that policy (his paragraph 34).

7.29 Environment Policy 42 states "New development in existing settlements must be designed to take account of the particular character and identity, in terms of buildings and landscape features of the immediate locality. Inappropriate backland development, and the removal of open or green spaces which contribute to the visual amenity and sense of place of a particular area will not be permitted. Those open or green spaces which are to be preserved will be identified in Area Plans."

7.30 The Area Plan does not identify the site as Public Open Space, which it clearly is not and there is no corresponding proposal for the site to become publicly accessible, nor would the site be particularly useful other than as an amenity area to look at rather than to actively use.

7.31 Whilst the site is presently natural in appearance and character, it would not appear to support species which warrant sufficient protection as advised by the Biodiversity Team to warrant refusal of the application.

8.00 CONCLUSION

8.1 In summary, whilst there are objections to the application, the site lies within an area designated for Mixed Use which includes Residential Use on the extant development plan. In addition, there has been a previous planning approval for the development of the site via a pair of dwellings, which has not lapsed (car parking provision installed on the shore side of the road within the 4-year time limit) and could be implemented. Therefore, the precedent for development of the site has been established. There is no evidence that the site is of sufficient ecological, archaeological or other importance as to warrant refusal of development and the proposal has responded to the criticisms of the previous application by halving the number of dwellings proposed, lowering the building (it would be no higher than the previously approved pair of dwellings) and reducing its scale and omitting access from Bay View Road. As such, it is considered that the proposal is acceptable and that permission should be granted. Whilst it is very unfortunate that a number of local residents, particularly along Shore Road have previously had to endure prolonged periods of disruption, inconvenience and nuisance through construction projects along Shore Road, this is not sufficient reason to refuse permission for another project in this area.

8.2 The proposed parking area was not considered to be objectionable in the previous application, indeed the Inspector recommended that the application should be permitted; and the subsequent approval by the Minister of PA 10/01892/B for two dwellings with integral garages and associated visitor parking, bore this out. As advised above, the parking area has been installed in accordance with this previous approval.

8.3 There is a suggestion that the parking area will detract from the character of the area, part of which is provided through the "blurred" boundary between the beach and the road. To some this may provide character, to others this may be seen simply as unkempt land without a proper boundary and indeed there is no contiguous form of boundary along the shoreline and there is an area further to the south where there is a similar parking area, finished roughly and where vegetation has naturalised around it, reducing its impact. There is nothing to suggest that the vegetation will not also naturalise around the installed parking area in a similar fashion. The proposal is for a tarmac surfaced area with a sloped stone faced edge onto the beach. It is not accepted that this will create a detrimental visual impact on the area.

8.4 The application is considered to be acceptable and is recommended for approval.

9.0 INTERESTED PERSON STATUS

9.1 By virtue of the Town and Country Planning (Development Procedure) (No 2) Order 2013 (Article 6(4)), the following persons are automatically interested persons:

- (a) The applicant, or if there is one, the applicant's agent;
- (b) The owner and the occupier of any land that is the subject of the application or any other person in whose interest the land becomes vested;
- (c) Any Government Department that has made written submissions relating to planning considerations with respect to the application that the Department considers material
- (d) Highway Services Division of Department of Infrastructure and
- (e) The local authority in whose district the land the subject of the application is situated.

9.2 The decision-maker must determine:

* whether any other comments from Government Departments (other than the Department of Infrastructure Highway Services Division) are material; and

* whether there are other persons to those listed in Article 6(4) who should be given Interested Person Status.

9.3 The Department of Environment Food and Agriculture is responsible for the determination of planning applications. As a result, where officers within the Department make comments in a professional capacity they cannot be given Interested Person Status.

PLANNING AUTHORITY AGENDA FOR 12th February 2024

Item 5.4

Proposal : To install 6 x 9 metre wooden telegraph poles with associated overhead wires. All six poles have been included in this application as all poles will be required to provide an overhead fibre service to the properties

Site Address : 1-29
Ballamillagyhn Estate
Mount Rule
Douglas
IM4 4HU IM4 4HX

Applicant : Manx Telecom Ltd

Application No. : 23/01236/B- [click to view](#)

Senior Planning Officer : Mr Jason Singleton

RECOMMENDATION: To APPROVE the application

Recommended Conditions and Notes for Approval

C : Conditions for approval

N : Notes (if any) attached to the conditions

C 1. The development hereby approved shall be begun before the expiration of four years from the date of this decision notice.

Reason: To comply with Article 26 of the Town and Country Planning (Development Procedure) Order 2019 and to avoid the accumulation of unimplemented planning approvals.

C 2. Unless otherwise approved in writing by the Department, any telecommunications cabinet, mounted equipment or wooden telegraph poles must be removed from the land on which it is situated, within 6 months of it no longer being required for telecommunications purposes, and such land must be restored to its condition before the development took place, so far as is practicable.

Reason: To ensure that any redundant infrastructure is removed and to comply with Strategic Plan Infrastructure Policy 3.

Reason for approval:

The proposal would not create any visual harm or intrusion into the site and surrounding area and would conform to those parts of Strategic Policy 1, General Policy 2(b,c,g) and Infrastructure Policy 3.

Interested Person Status – Additional Persons

It is recommended that the owners/occupiers of the following properties should be given Interested Person Status as they are considered to have sufficient interest in the subject matter of the application to take part in any subsequent proceedings and are not mentioned in Article 4(2):

No's 2, 8, 10, 14, 17, 20, 22, 23 Ballamillaghyn Estate,

as they are all within 20m of the application site and satisfy all of the requirements of paragraph 2 of the Department's Operational Policy on Interested Person Status.

Planning Officer's Report

THIS APPLICATION HAS BEEN REFERRED TO THE COMMITTEE GIVEN THE NUMBER OF OBJECTIONS

THE SITE

1.1 The application site is concerned to the pavements for Ballamillaghyn Estate, Mount Rule, Douglas. The estate is broadly 30 dwelling houses mainly bungalows or chalet style properties. The pavements here vary in width and connect all the properties in the wider estate and finished with tarmacadam with dropped kerbs to each residential property.

THE PROPOSAL

2.1 Planning permission is being sought for the installation of six x 9m tall wooden telegraph poles with associated overhead cables for the provision of fibre broadband internet. The timber poles would measure a diameter ranging from 250mm-300mm.

2.2 The poles would be located within the footpaths and shown as being adjacent to the boundaries of and installed adjacent or as close as to the boundaries of the properties below. Off each pole would be approx. 6 cables that would criss-cross out to the respective properties requiring fibre internet connection. The poles would be sited near;

Pole 1 - No's 2/3

Pole 2 - No's 24/25

Pole 3 - No's 26/27

Pole 4 - No's 19/20

Pole 5 - No's 11/12

Pole 6 - No's 14-15

2.3 The agent notes; "Installation of the telegraph poles will allow the premises to become "Passed" and allow property owners to place orders with their chosen service provider. Overhead wires that are required to span between poles are referred to as network cables and these will be installed at the same time as the telegraph poles. Once a property owner has placed an order with their chosen service provider, a Drop cable will then be installed between the serving pole and the property, in agreement with the property owner. This would now become a property "Connected." Premises to be connected to the new telegraph pole are Property numbers 1 - 29 Ballamillaghyn Estate".

2.4 The application has been submitted by Manx Telecom Limited.

PLANNING HISTORY

3.1 None.

PLANNING POLICY

4.1 The Area plan for the East (Map 8 - Union Mills/ Strang) identifies the application site as within an area of "white land" but adjacent to the wider residential 'Ballamillyghn Estate' which is also "white" on the Map. Previously on the 1982 North Plan the site and 'Ballamillyghn Estate' was zoned as residential.

4.2 The site is not within a designated Conservation Area or within an area identified as being at floor risk from tidal or surface water flooding. There are no registered trees / tree areas identified on / adjacent to the application site.

4.3 The Isle of Man Strategic Plan 2016 contains the following policies that are considered specifically material to the assessment of this application;

Strategic Policy

1 Development should make the best use of resources (c)

Spatial Policy

5 New development will be located within defined settlement.

General Policy

2 General Development Considerations (b,c,g)

3 Exceptions to development in the countryside (e)

Environment Policy

1 Protection of the countryside

22 (iii) Safeguarding the environment and/or the amenities of surrounding properties

Infrastructure Policy

3 Need for communications infrastructure versus environmental impacts

Transport Policy

4 Highway safety

4.4 The Isle of Man government has an overarching series of strategies and policies that are considered materially relevant to the assessment of this application. This includes the Isle of Man Government Climate Change Plan 2022-2027; which promotes a more sustainable approach to living and working, one of which is remote working.

4.5 National Telecoms Infrastructure committee report, September 2017 which concluded; "If the Island is to stay ahead of the curve and become a world leader in telecoms we will need appropriate sustained investment, an efficient shared infrastructure and the innovation and confidence to challenge barriers to deploying new technology. The importance of increasing the speed of broadband as a priority across the Island is clear".

4.6 National Telecommunications Strategy, October 2018 which concluded; "The National Telecoms strategy, laid out in six themes, looks to set a direction of travel by which the Island's telecom infrastructure can be recognised as being world class. It defines strategic outcomes to make it happen, in regulation and legislation, a national broadband plan, subsea cables and planning and wayleaves. The Government has made it clear that enhanced telecoms infrastructure is a top priority".

REPRESENTATIONS

(this report only contain summaries - full reps can be read online)

STATUTORY CONSULTEES

5.1 Braddan Parish Commissioners had not commented at the time of writing.

5.2 Highways Services do not object (15.11.23) but comment; " After reviewing this Application, Highway Services HDC finds it to have no significant negative impact upon

highway safety, network functionality and/or parking, providing the pole positions provide a clear width of 1.5m on the footways at all pole locations".

5.3 Residents of Ballamillaghyn Estate have commented with

NEIGHBOUR REPRESENTATIONS (in brief)

5.4 There are a number of comments that have been received from residents of Ballamillaghyn Estate, (namely; 2, 8, 10, 14, 17, 20, 22, 23) who OBJECT to the proposals who between them raise the following material planning considerations that have been thematically categorised;

- o Overhead cables and poles would be visually unsightly
- o Cable installations should be underground
- o Spacing between poles is too close
- o Backwards step for technology moving forward.
- o Would be taller than the street lights
- o Impact upon visual amenity
- o Cluttered view and old fashioned
- o Current telecoms are underground cables fed to properties via ducting
- o Alternative solution have not been explored
- o Would be taller than most properties
- o False information by the applicants
- o Currently all services are buried underground
- o Prevailing westerly winds would be problematic for the poles and wires
- o No image of the overhead cables shown criss-crossing the estate
- o No consultation with residents
- o Siting opposite living room (No.4) windows would be an eye sore
- o Potential for noise from the wind through the cables
- o Cheapest solution is not the best for residents
- o Poles are ugly with junction boxes
- o Backward step for the island
- o Detrimental impact upon living conditions

ASSESSMENT

6.1 The main issues to consider in the assessment of this planning application are as follows:

- Principle of development (SP1, IP3)
- Location of the proposal (GP3),
- Design and visual impact (GP2 b, c, EP1)
- Impact upon residential amenity (GP2 g and EP22)

PRINCIPLE

6.1 The application is submitted by Manx Telecom Limited, essentially due to the lack of available Fibre broadband coverage in the wider residential area of this estate, with customers presently having difficulty in accessing the 'faster' network. The proposed installation of the telegraph poles will have the capabilities to address the provision of providing the service to all properties within the surrounding area as demonstrated on their plan referenced; 2023P-1-2. The proposals also reflect the investment and modernisation of communications to the area but the method of providing the services thought the installation of timber poles and interconnecting cables has raised a number of concerns as noted from the consultation period (para5.4).

6.2 In favour of the proposals is Infrastructure Policy 3 and its supporting text which advises that the maintenance and improvement of the Island's telecommunications systems will necessitate a balance to be struck between the need for new and evolving

communications systems, particularly to satisfy the needs of residential and business demand, and the impact of such required development upon the environment.

6.3 The principle of development also further receives support from the Climate Change Plan 2022-2027 through improved network infrastructure that would allow for increased levels of home/remote working within the wider residential area. The residential catchment here is an important consideration, particularly given the Government's strategy for remote workings and the agent notes; "Good connectivity is vital to support this strategy and ensuring that areas of the island, such as residential areas and have high-capacity reliable mobile services to access the latest in technology is therefore key".

6.4 The National Broadband Plan then started 1st July 2020, with Manx Telecom, (chosen as the preferred supplier). As part of the Economic Recovery Fund that was announced by Treasury Minister Alfred Cannan MHK, the National Broadband Plan was accelerated from 5 years to 4 years as part of the of many initiatives to be supported under the Economic Recovery Fund.

6.5 The "need" for the proposal can be substantiated in this instance given the existing telecoms infrastructure located in the immediate vicinity and this proposal seeks to enhance this through the investment with the provision of newer and faster technology that would work towards IP3 and the islands communication goals.

LOCATION

6.6 The site sits just outside of the defined residential settlement boundary of Union Mills / Strang, In terms of development outside of defined settlements General Policy 3 allows for such exceptions through part 'e', mainly for location dependant development in connection with the provision of necessary services. Whilst the land is technically not zoned for development, the general principles contained with GP2 (a-n) offer guidance that specifically addresses those issues affecting existing properties on site and would be considered as general development control principles as discussed below.

6.7 Ballamillighan sits within a rural area and is essentially a concentrated residential estate with a loop road. On the highway that serves the estate are telegraph poles and cables (presumably electric and telecom) that services the area. This method of providing the infrastructure is not uncommon for rural areas. It is noted within the estate at present there are no telegraph poles or overhead cabling, equally there is little in the way of street lighting by modern standards.

DESIGN AND VISUAL IMPACT

6.8 General policy 2 ensures any visual impact is considered and equally Environmental Policy 1 ensure there is no adverse visual harm to the wider countryside, especially given a mast at 15m could be visible from afar. The proposed design and specific siting of the proposed mast and its associated equipment will be visible on the landscape but needs careful consideration to ascertain whether this would be more detrimental than the current situation or would result in a visual improvement. The opening sentence of Infrastructure Policy 3 is helpful when balancing the need and any visual impact: "A balance must be struck between the need for new, evolving communications systems to satisfy residential and business demand and the impact that the necessary infrastructure will have upon the environment."

6.9 Once consideration is the proposed location of the 6 poles would be within the pavement on the boundary line that serves those properties as noted in para 2.2, given this and the distance from those residential properties ensures that their residential amenities

would not be materially affected through any loss of light from over shadowing, overbearing impact through the scale of the proposals or result in a loss of privacy.

6.10 Whilst this proposal would be introducing additional street furniture into the streetscape and would be visible from within the estate and from some of the properties, this visual aspect would be more aligned with an individual's view and outlook. Whilst the level of objections to the proposals are noted as being from 8/30 dwellings on estate, there will be views of the proposals from dwelling houses, this would be a view and the loss of a view or interruption of a view is not a material planning consideration.

6.11 The columns would be read against the context of the residential streetscene and the set at the back of the pavement which would help to reduce their overall visual impact and would not have a detrimental impact upon the countryside (EP1) or the residential estate (GP2c). It is not considered that their visual impact would adversely affect its character and appearance and would have a neutral impact on the streetscene, especially considering the level of development that can be undertaken within the Permitted Development Order 2012, Schedule 1, Part 1 Statutory Undertakings; Class 10 & 12.

IMPACT UPON RESIDENTIAL AMENITY

6.12 The proposal by its nature being a wooden pole outside of any of the residential curtilages ensures that the residential amenities would not be materially affected through any loss of light, overbearing impact or loss of privacy and as a result of the installation. Whilst noted above there will be views of the proposals from dwelling houses, this would be a view and the loss of a view or interruption of a view is not a material planning consideration as previously mentioned. As such this aspect would accord with GP2g and Environmental Policy 22.

6.13 In terms of the proposals it will in places limit the width of the pavement but only for a short distance, it is noted Highways services do not oppose the proposals for marginally narrowing the pavement and the clearance height of the cabling of 5.5m above the road is acceptable.

6.14 On balance, the benefits of providing the required equipment to increase network coverage are considered to outweigh the limited visual harm resulting from the development, particularly in the context of the Government's ambition to improve public infrastructure and promote remote/home working as part of the Government's plan to achieve net zero status for the Island by 2050.

6.15 On this basis, it is considered that the proposal would not create any visual harm or intrusion into the site and surrounding area and would conform to those parts of Strategic Policy 1, General Policy 2(b,c,g) and Infrastructure Policy 3.

7.0 CONCLUSION

7.1 For the above reasons, it is concluded that the planning application would not harm the use and enjoyment of neighbouring properties or the highway network and would comply with aforementioned planning policies of the Isle of Man Strategic Plan 2016, and is recommended for approval.

8.0 INTERESTED PERSON STATUS

8.1 By virtue of the Town and Country Planning (Development Procedure) Order 2019, the following persons are automatically interested persons:

- (a) the applicant (including an agent acting on their behalf);
- (b) any Government Department that has made written representations that the Department considers material;

- (c) the Highways Division of the Department of Infrastructure;
- (d) Manx National Heritage where it has made written representations that the Department considers material;
- (e) Manx Utilities where it has made written representations that the Department considers material;
- (f) the local authority in whose district the land the subject of the application is situated; and
- (g) a local authority adjoining the authority referred to in paragraph (f) where that adjoining authority has made written representations that the Department considers material.

8.2 The decision maker must determine:

- o whether any other comments from Government Departments (other than the Department of Infrastructure Highway Services Division) are material; and
- o whether there are other persons to those listed above who should be given Interested Person Status

Item 5.5

Proposal : Change of use of land and buildings to animal sanctuary. Placement of container and hardstanding and installation of replacement drainage and septic tank (retrospective)

Site Address : The Stables
Greenhill
Jurby Road
Andreas
Isle Of Man
IM7 2EJ

Applicant : Ms Caroline Cardona
Application No. : 23/00221/B- [click to view](#)
Senior Planning Officer : Mr Jason Singleton

RECOMMENDATION: To APPROVE the application

Recommended Conditions and Notes for Approval

C : Conditions for approval

N : Notes (if any) attached to the conditions

C 1. The container located on the site shall only be used for staff welfare facilities and office space associated with the animal sanctuary hereby permitted and for no other purpose(s) including no residential occupation.

Reason: In order to regulate and control development on the site, as the site lies in the open countryside.

C 2. The site shall not be open to the general public.

Reason: In order to regulate and control development on the site, as the site lies in the open countryside.

C 3. The yard and turning area as shown on two parking areas shown on drawing Yard and Field Plan dated 25 April 2023 shall be retained, kept clear and made available for use in association with the animal sanctuary hereby permitted at all times.

Reason: In the interest of highway safety and the free flow of traffic.

C 4. There shall be no more than 10 dogs accommodated on site at any one time.

Reason: In the absence of a noise assessment it is considered to specify a max 10 dogs would strike the right balance between the operations of the sanctuary and would be reasonable to protect the living conditions of neighbouring residents.

C 5. If Greenhills Sanctuary leave the site the use of the site as a dog rescue and animal sanctuary shall cease and all structures on the site, including the container, shall be removed within three months of Greenhills Sanctuary leaving the site.

Reason: The application site is located in the open countryside with the proposal representing exceptional development in the countryside.

Reason for approval:

While the keeping of animals in connection with agriculture does not involve development, it is clear that the applicant takes in stray and distressed animals and are not involved in the use of the land for agricultural purposes, however the use of the land for keeping the rescued animals is considered acceptable as it is very similar to agriculture. The site is located within the open countryside and the proposed use of the land and buildings as an animal sanctuary requires a countryside location to accommodate the animals and associated buildings. The proposal is considered to be low key and have a limited visual impact on the countryside. Planning conditions can be used to control the use and safeguard the identified limited impact on the countryside and on neighbours and would therefore broadly accord with the following policies; Strategic Policy 1, Strategic Policy 2, Strategic Policy 5, Strategic Policy 10, Spatial Policy 5, General Policy 3, Environment Policy 1, Environment Policy 21, and Environment Policy 22.

Interested Person Status – Additional Persons

It is recommended that the following should be given Interested Person Status as they are considered to have sufficient interest in the subject matter of the application to take part in any subsequent proceedings:

Greenhill Jurby Road Andreas
Ballacreebin Cottage Jurby Road Andreas

as they have explained how the development would impact the lawful use of land owned or occupied by them and in relation to the relevant issues identified in paragraph 2C of the Policy, as is required by paragraph 2D of the Policy.

Planning Officer's Report

THIS APPLICATION HAS BEEN REFERRED TO PLANNING COMMITTEE AS IT COULD BE CONSIDERED CONTRARY TO THE PROVISIONS OF THE DEVELOPMENT PLAN

1.0 THE APPLICATION SITE

1.1 The application site is open countryside. The site is a former stables and paddock and is currently being used as an animal sanctuary. The site is fairly level. The existing stable on site is being used to accommodate the animals. There is also a container which is being used as an office/welfare facility with associated infrastructure (drainage and septic tank). The site is accessed through an existing access onto Jurby Road (approved as part of the stables application in 2007) and a gate onto an existing hardstanding and turning area.

1.2 There are two properties nearby one apx 90m to the north west and another apx 128m to the south east.

2.0 THE PROPOSAL

2.1 The current planning application seeks approval for the change of use of the land to an animal sanctuary, including the use of a container as an office/welfare facility (with associated infrastructure). This is currently on the site and is located on/near to the western boundary perpendicular to the stable buildings.

2.2 There is an existing access to the site from Jurby Road which will be utilised to serve the animal sanctuary.

2.3 It is noted that there are some other structures under construction, at the time of the site visit, which are not covered by this application. This application purely relates the use and the regularisation of the stables and the containers.

3.0 PLANNING HISTORY

3.1 There are several applications upon the site of which the following are most relevant to the assessment of this application.

3.1.1 07/02137/B - erection of stable block was approved subject to a number of conditions including the following;

1. The stables may only be used for the private use of keeping horses and related feed and equipment in association with the principal dwelling "Farrants Fort".

As it was considered that the proposal is a modest sized structure for the keeping of horses on the site. The siting of the stables has been chosen to reduce the visual impact of the stables upon the surrounding landscape. The stables would be well screened from public view, particularly when travelling along the Jurby Road due to the significant mature hedgerows and mature trees which line the northern and eastern boundary of the site. Additionally, the stables are a fairly low structure (max 3 meters in height) and would have a timber clad finish (shiplap finish), which will therefore blend well with the surrounding vegetation.

3.1.2 05/92166/B - erection of an agricultural building was refused on the following grounds;

1. The proposed building would by reason of its height, siting, massing and design introduce a prominent and incongruous feature into the landscape, which would cause demonstrable harm to the openness and character of the countryside and would be detrimental to the visual amenities of the locality. Furthermore, the applicant has not demonstrated that there is sufficient need to justify an excessively large building within the countryside to the detriment of the visual amenities of the locality.

2. The applicant has not provided any evidence to demonstrate why other outbuildings within Farrants Fort are unsuitable for the proposed uses and therefore it would be inappropriate to allow a new building without first considering this information.

3.1.3 04/00639/A - approval in principle for erection of an agricultural workers retirement dwelling refused on the following grounds;

1. The proposal is considered to be contrary to the provisions of the Planning Circular 3/88 insofar as the stated agricultural need and circumstance of the applicant are insufficient to offset the general planning objections to residential development in the countryside.

4.1 PLANNING POLICY

4.1 The site lies within an area zoned as an "Area of private woodland or parkland" and white land on the 1982 Development Plan, North Map. The property is not within a Conservation Area or a Flood Risk Zone or within an area zoned as High Landscape or Coastal value and scenic significance.

4.2 Given the nature of the application and the land designation the following Strategic Plan policies are considered relevant;

Strategic Policy 1 - best use of resources

Strategic Policy 2 - location of development; development in countryside only in exceptional circumstances (para 6.3)

Strategic Policy 5 - buildings should make a positive contribution to environment

Strategic Policy 10 -location of development; transport network
Spatial Policy 5 - development location; development in countryside only in exceptional circumstances in accordance with General Policy 3
General Policy 3 - exceptions to development in the countryside
Environment Policy 1 - protection of the open countryside
Environment Policy 3 - protection of woodland areas
Environment Policy 14 - protection of important and versatile agricultural land
Environment Policy 21 - design of buildings for stabling, shelter or care of horses of other animals
Environment Policy 22 - prevention of pollution and quality of life inc noise

While not directly relevant to the proposed use Environment Policy 15 provides design advice for siting of new agricultural buildings in the countryside where need is satisfied the development should be sited as close as is practically possible to existing building groups and be appropriate in terms of scale, materials, colour, siting and form to ensure that all new developments are sympathetic to the landscape and built environment of which they will form a part.

While the proposal is not zoned for development parts of General Policy 2 are considered relevant in relation to design, location, neighbours and traffic (b,c,g,h)

5.0 REPRESENTATIONS

5.1 The following representations can be found in full online;

5.2 Highway Services have considered the proposal, including the additional information and state "Highways Development Control notes the additional information uploaded on 25 April 2023. This greatly clarifies the number of movements and parking arrangements at the site. As the amount of traffic is relatively low and expected to remain similar in the near the future, HDC is satisfied that the proposal is unlikely to cause significant impact to road safety or network functionality. The parking arrangements are adequate too. Accordingly, the proposal as indicated now overcomes the outstanding highway related concerns for no objection to be raised. A restrictive planning condition may be appropriate to apply to contain activities to current levels. Highway Drainage may comment further on the surface water drainage; although it is noted that this matter has been addressed within the additional information too." (28.04.23)

5.3 Andreas Parish Commissioners have considered the proposal and state "The Commissioners feel that to permit this installation (retrospectively) would set a precedent for other rural and/or agricultural buildings within the Parish." (09.03.21)

5.4 Highway Services drainage comment that "Allowing surface water runoff onto a public highway would contravene Section 58 of the Highway Act 1986 and guidance contained in section 11.3.11 of the Manual for Manx Roads and the applicant should be aware off and comply with the clauses above" (05.04.23)

5.5 Owner/occupier of Ballacrebbin Cottage make a number of comments of which the following are considered to be planning considerations (16.03.24, 03.04.23 and 11.04.23);

- retrospective application and has been there some time and the containers came to the site in 2018;
- Applicant and her partner are living there;
- Application form references work that is ongoing but no details are provided;
- further kennels were under construction / near completion that are not in this application;
- noise from dogs barking;
- Concern about further development and becoming commercial boarding kennel;

- container is an eyesore, not in keeping with the area; and
- visibility of the container from their access.

Issues raised not considered to be a planning matter;

- land ownership/boundary was under dispute; and
- removal of vegetation.

5.6 Owner/occupier of Greenhills Jurby Road makes the following comments;

- number of dogs locked in stables and noise and frequency of barking affects quiet enjoyment of the garden;
- comments that this has abated with applicant living at the property;
- currently under construction kennels will move noise further away;
- concerned number of dogs will increase and would appreciate a number be placed such as 6.

6.0 ASSESSMENT

6.1 The main issues to consider in the assessment of this planning application are:

- principle of development (StP1, StP2 StP10, GP2, GP3,EP1, SP5, EP14)
- character and appearance (StP5, EP1, GP2)
- impact on neighbouring and area amenity (EP3, GP2, EP 22)
- access (stP2, GP2)
- other matters

6.2 Principle of Development

6.2.1 Change Of Use

The stables were originally approved and linked to a nearby property, Farrants Fort. The land in question was purchased by the Animal Sanctuary in 2018. Some of the animals are in open and graze the land with supplementary feed when necessary. The stables are used to house mainly dogs (that are unable to remain in a normal domestic setting), and sheep at the time of the site visit. However the owner of the sanctuary does take all types of animals.

Planning Case Law:

The work carried out at an animal sanctuary can amount to a very special circumstance as demonstrated in Rotherham 5/12/2005 DCS No 100-040-519. The inspector noted that the appellant kept horses, ponies, donkeys, pigs, fowl, ducks, goats and sheep on the land. Although the keeping of animals in connection with agriculture did not involve development, it was clear that the appellant rescued stray and distressed animals and kept them in various buildings on the land. They were not kept for food and were not involved in the use of the land for agricultural purposes. The inspector, in that case decided that planning permission was required for a change of use of the land.

6.2.2 It is clear that an animal sanctuary is not agriculture but that as the grazing of animals is similar to agriculture and could be tolerated. As more diversification takes place with facilities being developed for staff welfare and offices a change of use is occurring. The use of the land for keeping the rescued animals is considered acceptable as it is very similar to agriculture. The day to day operations at the sanctuary include general animal husbandry including feeding, treatment to animals, repairs to fencing, maintenance to buildings and other farm management practices.

6.2.3 The more facilities that are provided on the site the more intensive the non-agricultural element of the operation becomes; in this case there is the addition of the welfare facilities/office and associated works however it is not intended to be open to the public or open to visiting members of the public.

6.2.3 The site is located in the open countryside and this type of use requires a countryside location in order to accommodate the animals and associated buildings and equipment on the land. The proposal is considered to be a low key use and will have a limited visual impact on the open countryside. The proposal is an appropriate use in the open countryside and therefore accords with the policies set out above.

6.2.4 Planning conditions can be used to control the use to safeguard the impact the proposal will have on the open countryside and on neighbours.

6.3 Character and Appearance

6.3.1 The site is a paddock/field with the land grassed and fairly level. There is some hedgerow / sod banks screening at the boundaries which screens some of the site from view. At the time of the site visit the stables on the site accommodating the animals, with some others under construction which are not covered by this application. The stables are existing structures that were approved in 2007 and they were considered to be a low level building of a modest size and the siting reduced the visual impact on the surrounding landscape. This situation has not changed.

6.3.2 The site is quite well screened from public view, particularly when travelling along the Jurby Road due to the significant mature hedgerows and mature trees which line the northern and eastern boundary of the site. Additionally, the stables are a fairly low structure (max 3 metres in height) and would have a timber clad finish (shiplap finish), which will therefore blend well with the surrounding vegetation. The container and hardstanding are located near to the existing stables and would be screened from public view as set out above. It is noted that it is visible from an adjacent neighbouring property however that in and of itself is not considered to be a reason for refusal. While the stable buildings are considered appropriate in the countryside the container is not something that is readily encouraged, however it is sited as close as is practically possible to existing building group and is considered appropriate in terms of scale, it has been coloured to try and blend in, which can be conditioned. On this basis it is not considered that its placement and use would not harm the character or quality of the landscape.

6.4 Impact on Residential Amenity

6.4.1 The site is located close to some residential properties. The keeping of animals is an appropriate activity in the open countryside under GP 3, however there are more than farm animals kept here, such as dogs and concerns have been raised over noise from them barking. It is not clear how many dogs are kept at the premises, and is expected it is a fluid number based on need.

6.4.2 As set down in para 7.17.1 of Strategic Plan it is not the role of land use planning to duplicate controls which are the statutory responsibility of other agencies including other directorates within the Department of Local Government and the Environment. Policy EP22 is intended to prevent development which would unacceptably impact upon current and future land uses through the effects of pollution. Noise can have an adverse impact either through the noise itself or general disturbance.

6.4.3 While there are Conditions and Guidance for Dog Boarding Establishments (2019) issued by DEFA they are relatively silent on the size of accommodation that should be provided and focus more on design and construction and dog welfare.

6.4.4 There is planning case law surrounding the keeping of dogs and their number before a material change of use would occur (Wallington v SoS [1990]). The guidance coming from Wallington, which was in a domestic setting, is that it may be deduced that the keeping of more than 6 dogs may well be a material change of use, however this figure should not be

used as a rule of thumb applicable in all cases. As with all applications considerations such as the character of the area and the proximity of neighbouring properties should form part of the process. It is also clear that whether an activity is for hobby/humanitarian purposes or commercial gain is not a determining criterion on its own, which would be the situation in this application.

6.4.5 This application is seeking approval for a change of use and the above case is useful in balancing between the needs of the sanctuary and to protect the living conditions of neighbouring residents. Taking into account the size of the buildings and the distance to the nearest neighbours it is considered a max 10 dogs would strike the right balance and would be reasonable to protect the living conditions of neighbouring residents.

6.5 Impact on the Highway

6.5.1 The access is already in existence and Highways are satisfied that the proposal is unlikely to cause significant impact to road safety or network functionality and that the parking arrangements are adequate too. The amount of traffic is relatively low and expected to remain similar in the near the future.

6.5.2 Planning conditions will be used to ensure that the use is not open to the general public in order to ensure vehicle movements are kept to a minimum.

6.6 Other Matters

6.6.1 The application also includes the installation of a septic tank. The proposed septic tank provides a sealed foul water disposal system commonly employed on properties which are not connected to any mains drainage system, the proposed septic tank and associated drainage field are considered to be of sufficient distance away for adequate discharge of treated waste water so not to be considered a nuisance to neighbouring residents in respect of effluent leakage or odours. With the addition of a welfare unit (the container) this would be necessary and it is considered that it would not give rise to any adverse amenity impacts in respect of the residential amenities that neighbours currently enjoy.

6.6.2 Some of the representations make reference to the retrospective nature of the application. Regardless of the emotions that can be aroused by someone carrying out development without planning permission, the decision maker must approach a retrospective application seeking to legitimise a development that has already taken place in exactly the same way as a 'normal' application for proposed development.

7.0 CONCLUSION

7.1 While the keeping of animals in connection with agriculture does not involve development, it is clear that the applicant takes in stray and distressed animals and are not involved in the use of the land for agricultural purposes, however the use of the land for keeping the rescued animals is considered acceptable as it is very similar to agriculture. The site is located within the open countryside and the proposed use of the land and buildings as an animal sanctuary requires a countryside located to accommodate the animals and associated buildings. The proposal is considered to be low key and have a limited visual impact on the countryside. Planning conditions can be used to control the use and safeguard the identified limited impact on the countryside and on neighbours. On this basis the proposal is considered to comply with the relevant provisions of the Strategic Plan as set out about in section 4.0.

8.0 INTERESTED PERSON STATUS

8.1 By virtue of the Town and Country Planning (Development Procedure) Order 2019, the following persons are automatically interested persons:

(a) the applicant (including an agent acting on their behalf);

- (b) any Government Department that has made written representations that the Department considers material;
- (c) the Highways Division of the Department of Infrastructure;
- (d) Manx National Heritage where it has made written representations that the Department considers material;
- (e) Manx Utilities where it has made written representations that the Department considers material;
- (f) the local authority in whose district the land the subject of the application is situated; and
- (g) a local authority adjoining the authority referred to in paragraph (f) where that adjoining authority has made written representations that the Department considers material.

8.2 The decision maker must determine:

- o whether any other comments from Government Departments (other than the Department of Infrastructure Highway Services Division) are material; and
- o whether there are other persons to those listed above who should be given Interested Person Status

PLANNING AUTHORITY AGENDA FOR 12th February 2024

Item 5.6

Proposal : **Erection of 133 dwellings with associated drainage and access (Amendments to 19/00961/B)**
Site Address : **School Hill/Westhill Estate
Castletown
Isle Of Man**
Applicant : **Castletown Commissioners**
Application No. : **23/00823/B- click to view**
Planning Officer : **Miss Lucy Kinrade**

RECOMMENDATION: **To APPROVE the application subject to a legal agreement**

Recommended Conditions and Notes (if any) once the required legal agreement has been entered into

C 1. The development hereby approved shall be begun before the expiration of four years from the date of this decision notice.

Reason: To comply with Article 26 of the Town and Country Planning (Development Procedure) Order 2019 and to avoid the accumulation of unimplemented planning approvals.

C 2. Fencing and boundary treatment shall be carried out in full accordance with drawing number SC1536/P/10-05 Rev B and SC1536/P/10-02 Rev D and retained as such thereafter.

Reason: to ensure that the boundary treatment is appropriate for the character and appearance of the estate including pedestrian routes through the development and to align with those conditions satisfied under 19/00961/B.

C 3. Notwithstanding the provisions of the Town and Country Planning (Permitted Development) Order 2012, or any such Order superseding this, no wall or fence may be erected other than those approved in this application, where the fence or wall would sit between any dwelling and a highway including pedestrian routes within the site.

Reason: to retain a pleasant and open estate as shown in the submitted plans.

C 4. No site clearance, preparatory work or development shall take place until the tree protection measures are installed in accordance with those details shown on drawing SC1536/P/10-05 Rev B and SC1536/P/10-02 Rev D. The protective measures shall remain in place until the development is complete unless otherwise approved in writing by the Department.

Reason: to ensure that the proposed tree retention is practicable and implemented that the retained trees are adequately protected throughout the construction period.

C 5. Prior to the occupation of the last dwelling, the cycle parking shall be installed and provided in accordance with the details shown on drawing SC1536/P/10-02 Rev D and shall be retained for such purposes thereafter.

Reason: to support active travel and sustainable transport.

C 6. Prior to the occupation of any dwelling, the respective car parking for that dwelling must be provided in accordance with SC1536/P/10-02 Rev D and thereafter retained free and available for parking purposes.

Reason: to ensure off road parking is available in the interest of highway safety.

C 7. Prior to the occupation of the last dwelling the traffic calming measures shall be installed in full accordance with SC1536/P/10-02 Rev D and retained as such thereafter.

Reason: in the interests of highway safety and to align with the satisfied conditions of 19/00961/B.

C 8. Prior to the occupation of the last dwelling, the EV charging shall be installed and provided in accordance with the details shown on drawing SC1536/P/10-06 Rev A and SC1536/P/10-02 Rev D and shall be retained for such purposes thereafter.

Reason: to support sustainable travel.

C 9. Prior to the occupation of any dwelling the respective wheelie bin store for that dwelling shall be provided in full accordance with those details shown on SC1536/P/10-03 and retained thereafter.

Reason: in the interest of suitable bin provisions for each dwelling.

C 10. The hardstanding connection from Westhill Avenue to the bus stop on the A5 as shown on SC1536/P/10-02 Rev D shall be completed prior to the occupation of the first dwelling in Phase 3 of the site and retained thereafter.

Reason: in the interest of highway safety and access to the bus stop and sustainable travel.

C 11. Notwithstanding the wider site detail shown on drawing BBC ZZ DR 311 C02, approval of this drawing relates only to the details given for the highway alignment and highway level details specified. The highway alignment and levels must be carried out in full accordance with the details and retained as such thereafter.

Reason: For the avoidance of doubt as the drawing shows other detail which relates to the original 19/00961/B and not to this current application and this drawing is being assessed for the highway alignment and levels only in the interest of highway safety.

C 12. Notwithstanding the wider site detail shown on drawing BBC ZZ DR 312 C01, approval of this drawing relates only to the details given for the highway contours specified and any works relating to highway contours shall be carried out in full accordance with the details provided and retained as such thereafter.

Reason: For the avoidance of doubt as the drawing shows other detail which relates to the original 19/00961/B and not to this current application and this drawing is being assessed for the highway contours only in the interest of highway safety.

C 13. Prior to the commencement of any works relating to dwellings within Phase 2 or Phase 3 (which ever is the sooner), details of the layout of the Public Open Space including any children's play equipment and landscaping, and including a schedule of implementation shall be submitted to the Department for approval. Any works relating to the Public Open Space shall be carried out in full accordance with the approved details and maintained thereafter.

Reason: To ensure the Public Open Space is provided in the interest of public amenity.

N 1. For avoidance doubt, the conditions supporting planning approval 19/00961/B which required submission of further detail (specifically 2, 4, 6 and 8), whilst all having been satisfied, the obligations are reiterated by this approval and must be further considered.

N 2. FOR YOUR INFORMATION

Please be aware that a ban on the installation of fossil fuel heating systems in any new building(s) and or extension(s), will come into force on 1st January 2025.

You therefore are encouraged to ensure that your proposed development includes alternatives to fossil fuel heating systems if you believe that such works will not be completed by that date.

To this end, if you propose an alternative, such as air source or ground source heat pump(s), or any other heating system that would require planning approval, the details of this should be addressed now. This may require you to resubmit your planning application to accommodate the alternative permitted heating system proposed.

Reason for approval:

The physical works relating to site layout changes are all considered to have an acceptable visual, amenity and highway safety impact and not to create any increased or unacceptable harm beyond the works already accepted under 19/00961/B and suitably worded conditions will be added to ensure works are carried out in accordance with the submitted details, and whilst there will be a loss of existing public sector housing from 101 to 94, the overall replacement and upgrading of 94 public sector houses along with redevelopment of the immediate surroundings including upgraded internal road networks and public space provision are circumstances that weight in favour of the scheme, and on an exceptional basis considered to outweigh the loss of 7 public sector houses in this specific case. Subject to conditions and a S13 securing the affordable housing the application is considered acceptable in line with Strategic Policies 1, 2 and 12, Spatial Policy 2, General Policy 2, Housing Policy 5, principles of Housing Policy 18, principles of Recreation Policies 3 and 4, Transport Policy 2 and principles of Transport Policies 4 and 7 of the Isle of Man Strategic Plan 2016.

Interested Person Status – Additional Persons

It is recommended that the following Government Departments should be given Interested Person Status on the basis that they have made written submissions relating to planning considerations:

- o Department for Enterprise

It is recommended that the following Government Departments should not be given Interested Person Status on the basis that they have not made written submissions relating to planning considerations:

- o Manx Utilities

It is recommended that the owners/occupiers of the following properties should be given Interested Person Status as they are considered to have sufficient interest in the subject matter of the application to take part in any subsequent proceedings and are not mentioned in Article 4(2):

o The Owners of Croft Beg, The Crofts, Castletown as they satisfy all of the requirements of paragraph 2 of the Department's Operational Policy on Interested Person Status.

Planning Officer's Report

THE APPLICATION IS BEFORE PLANNING COMMITTEE AS IT WOULD RESULT IN A DEVELOPMENT OF MORE THAN 8 UNITS AND IS SUBJECT TO A LEGAL AGREEMENT

THE SITE

1.1 The application site relates to a public sector housing estate run by Castletown Commissioners which has recently been approved for redevelopment with 133 dwellings comprising a mix of housing types including two, three and four bed dwellings some of which bungalows, some houses and some apartments. Some of the dwellings are also disability friendly accessible bungalows.

BACKGROUND OF SITE

1.2 There have been two recently withdrawn applications seeking to relocate 2 of the accessible bungalows to the other side of the site where the land is flatter, during this process it became apparent that there was a number of other significant works which needed to take place to accommodate the relocated bungalows, as well as some other planned works which had evolved through the phasing works at the site and further details are provided for this later in the report (3.0 and 6.0). These changes amounted to the need for re-submission for the whole site including the need to address the conditions actioned on the original approval 19/00961/B.

1.3 In December 2022 PA 22/00967/B was presented to Planning Committee (PC) which sought approval for the layout changes to the 2019 approval and with no changes to the Affordable Housing Units (AHU) or public open space beyond the original 2019 approval. The recommendation was to approve subject to a legal agreement duplicating the AHU figures of the original 2019 approval and PC approved the application subject to the S13 legal agreement.

1.4 As part of the S13 process the agent/applicant sought to change the AHU numbers. It was made clear that in order to do this it needed to form part of the full advertised planning application and properly consulted on, and could not be done as part of the S13 process. This 2023 application has been submitted to do address the proposed changes to the existing public sector housing number and AHU as well as the estate layout changes.

THE PROPOSAL

2.1 The proposal now seeks estate layout changes, reduction to existing public sector housing numbers and AHU changes compared to 19/00961/B there are detailed below:

Estate Layout Change:

2.2 Relocate 2 accessible bungalows (B15) to the opposite side of the estate and into the southeast corner. The proposal will also see 16 other two bed bungalows along the southern row being repositioned to accommodate the changes to the accessible units.

2.3 Supporting information indicates that the new site for two accessible bungalows is more level and more easily accessible to public footpaths and to the town centre. Changes to the two properties also includes floor plan changes and a footprint increase by 1200mm, and some internal reconfigurations resulting in changes to window positions. Wheelie bin areas for each dwelling has been added to the frontages.

2.4 Car parking along the southernmost edge will also be modified to relocate the disabled bays outside of the accessible units.

2.5 This application also now proposes to re-angle two dwellings (B16) in the south-west corner to run flat with those already along the southernmost boundary and the creation of an extended roadway to provide access. This also includes the modification of car parking spaces to relocate two outside of the re-angled dwellings.

2.6 Also proposed are the installation of two areas of electric vehicle charging points which have resulted in the loss of 2 car parking spaces within the estate.

2.7 The application submission also includes detail relating to conditions actioned on the original 2019 approval in respect of traffic calming measures, cycle stores, boundary treatments and tree protection. Drawings have also been submitted to clarify the extent of the development works proposed (and already approved as part of 19/00961/B) for the rest of the site which will be built in phases.

Affordable Housing Units

2.8 The figures are calculated as follows:

- o 94 houses = to be let as public sector housing (7 house reduction from 101 original estate)
- o 39 houses = to be sold on open market
- o 10 of which are to be Affordable Housing Units (25% of 39 = 9.75 rounded up)

2.9 Public Open space (POS) is not being changed from 19/00961/B and is indicated in the agents supporting statement as being 2682 sq m proposed most of which is within a central area with landscaping, seating and childrens play area. Although referenced within the previous officers conclusion for 19/00961/B, the POS was not specifically worded within the previous S13 agreement, wording covered affordable housing only although attached at the end was a copy of the agents original POS calculations.

PLANNING HISTORY

3.1 The site has been the subject of a number of historic applications for alterations to existing houses, the erection of new dwellings and alterations to accesses, but the most relevant in this case is PA 19/00961/B for the redevelopment of the estate with 133 properties which was approved subject to a number of conditions some of which required detail to be submitted prior to commencement including detail for boundary treatments, tree protection plans, cycle parking and traffic calming measures. A condition was added revoking permitted development for fencing, walls and gates and another to ensure parking was provided in accordance with the approved drawings prior to occupation of dwellings.

3.2 Since 2019 there have also been two applications submitted which primary sought to relocate two bungalows, 21/01508/B and 22/00547/B. Both of these were later withdrawn as they both failed to acknowledge the need for a significant amount of other work to accommodate the changes and which would also need planning approval. 22/00967/B remains on hold until determination of this 2023 application.

PLANNING POLICY

4.1 The site is designated on the Area Plan for the South 2013 as Residential. The original application 19/00961/B under which the 133 houses were originally approved was assessed against a significant number of paragraphs and policies of both the Area Plan for the South 2013 (APS) and the Isle of Man Strategic Plan 2016 (IOMSP) these relating to the need for regeneration and redevelopment, suitable urban capacity and density of development, directing development to key centres and on appropriately zoned sites, safeguarding

satisfactory affordable housing provision and open space, and ensuring suitable and high quality design and development standards in terms of visual and amenity impacts and highway safety. These paragraphs and policies are listed below in summary but can be viewed in full in the relevant corresponding documents. Regard also given to the recently released Residential Design Guidance 2021 in development of new dwellings.

4.2 APS 2013

- o Paragraphs 2.1.11, 4.4.6, 4.4.7, 4.13.1, 4.13.2 - relate to processes of 'plan, monitor and manage' through urban capacity assessments, Residential Land Availability Study, regeneration of existing housing stocks and density of development on sites to maximise and make best use whilst consulting with appropriate utilities providers such as IOM Sewerage Authority.

4.3 IOMSP 2016

- o Strategic Policies 1, 2, 5 and 12 - relate to re-use of existing sites, good design and regeneration of existing sites
- o Spatial Policy 2 - directs development to existing key centres including Castletown
- o General Policy 2 - general standards towards acceptable development
- o Housing Policies 5 and 18 - relate to affordable housing and replacement housing
- o Recreation Policies 3 and 4 - amenity and open space for development
- o Transport Policies 2, 4 and 7 - need for appropriate and safe highway provisions

REPRESENTATIONS

Copies of representations received can be viewed on the Government's website. This report contains summaries only.

5.1 Castletown Commissioners - no comments received as of 02/02/2024.

5.2 Department of Infrastructure Highway Services - Do not oppose subject to conditions (23/08/2023 and 22/12/2023) - conditions sought:

- o site plan, cycle stores and EV charging as per DWG 10.02.D
- o bin stores as per DWG 10.03 before occupation of each dwelling
- o vehicle parking as per approved plan 10.02 D before occupation of each dwelling
- o hardstanding connection as per DWG 10.02 D shall be completed before first occupation of first dwelling in phase 3.

5.2.1 A section 4 highway agreement will be required and closing parts of the adopted highway will need an extinguishment order both matters to be dealt with outside planning.

5.2.2 No further comments providing the red surfacing on the footways across the site, and cycle parking provision, as per Rev C site plan, are retained on the 21 Dec site plan proposals and additional details.

5.3 Department for Enterprise - Head of Business Agency - in support (14/08/2023) proposal meets major strategy driver in the IOM Economic Strategy Nov 2022 and delivering aspects of the Island Plan and infrastructure and services elements of the Built Environment Reform Programme.

5.4 Manx Utilities - no objections (19/01/2024) - comment that the developer enters into an adoption agreement with the authority.

5.5 The owners of 'Croft Beg', The Crofts, Castletown - Objection (31/07/2023) - they raise concern in relation to the lack of detail for works to Bog Lane which sits within the Conservation Area and they highlight that increased pedestrian access to this lane will create

noise to surrounding properties and the lane is frequently used by people returning home late at night together with dog walkers.

5.6 DOI Housing - comments have been sought and are awaited (02/02/2023).

ASSESSMENT

6.1 There have been two recently withdrawn applications which sought to relocate 2 accessible bungalows to the other side of the site where the ground is flatter and would be more beneficial to any future occupants. During these applications it became apparent that a number of other significant works (moving of other dwellings) needed to take place in order to accommodate the bungalow relocation and since the original 2019 approval the agent/applicant also seek to make changes to other parts of the site including re-aligning of two dwellings, parking and road layout changes in the south-west corner, installation of EV charging points and changes to the affordable housing numbers.

6.2 This 2023 application would now act as the new consolidated application for the entire site completely replacing the 2019 approval which would fall away, although 2019 remains a material consideration given that works to phase 1 have started and could be continued in full accordance of the 2019 approval and its respective S13 agreement, and so minded of this material consideration the general level of development as sought in this 2023 application remains similar in still being for 133 dwellings with associated access and drainage works and so the key tests of this application fall to the assessment of the new changes now being made to the site layout as referred in 2.0 above and full assessment of the changes sought to the existing public sector housing and affordable housing numbers.

6.3 The key issues to consider in this case are those physical works relating to the estate layout changes and whether the loss of existing public sector housing and change to affordable housing numbers is acceptable:

Physical Works and Layout Changes:

- i. Visual Impacts - whether or not the repositioning of the dwellings (accessible bungalows B15 and dwellings B16) results in any new increased or adverse visual impacts;
- ii. Amenity Impacts - whether or not the repositioning of the dwellings (accessible bungalows B15 and dwellings B16) result in any new, increased or adverse neighbouring amenity impacts;
- iii. Highway Safety Impacts - whether or not the introduction of EV charging points and car parking space changes will result in any highway safety issues, and
- iv. Impact on Previous Conditions - whether approval of the new application will contravene any of those conditions actioned on the previous 19/00961/B approval or potentially impact on the previous Section 13 Agreement.
- v. Other Material Considerations - clarification of the drainage, highways, house types and public open space (19/00961/B)

Loss of Housing and Affordable Housing

- vi. Reduction to public sector housing compared to original estate of 101 houses
- vii. Affordable Housing calculation

i) Visual Impact

6.4 The proposals do not increase the number of dwellings nor make any significant changes to their overall size, scale, design or appearance. The scope of works remains largely unchanged and the repositioning and changes to the dwellings are not expected to result in any new or increased adverse visual impacts beyond that already approved for the wider residential estate as to warrant a concern now. The visual impact of the repositioning of the dwellings is considered acceptable.

ii) Amenity Impact

6.5 Not too dissimilar from the conclusions of the visual impact, there are no proposals to increase the number of dwellings nor any changes to the property types as to create any new or increase issues beyond that already accepted as part of the 2019 application and which could still be constructed although it is noted that there is limited comparative existing and proposed site level details for the dwellings and their true impact, although aforementioned the 2019 could still be progressed and its unsure how a different judgement could now be reasonably be reached. The re-aligning of the two southwest dwellings will bring their building line closer to the neighbouring sites, however not considered to result in any significant adverse overbearing or amenity impacts as to raise concern or issue in this case. The amenity impact of the re-positioning of the dwellings is considered acceptable.

iii) Highway Safety Impacts

6.6 The proposal includes the relocation of some parking spaces and the reconfiguration of their layout to accommodate the changes being made to the re-angled dwellings and the relocated bungalows. The proposal also includes the introduction of EV charging points which require larger car parking spaces either side. The information submitted with the application indicates that these changes will result in the loss of three car parking spaces for the whole estate (there are no changes being made to the separate garages). The site is located within close proximity to the town centre and to local bus routes, there are also designated cycle parking bays to support alternative means of transport, in this instance it is considered that the reduction by three spaces is not considered to significantly adversely harm the highway safety area of the estate or surrounding highway networks, also minded that DOI Highway Services have indicated no opposition to the proposal.

iv) Impact on Previous Conditions

6.7 Approval and implementation of this application would replace the previous 2019 approval, and so it is important as part of the assessment and determination that approval does not undermine any conditions of the original approval. The 2019 application was approved with a number of conditions including four 'prior to' conditions relating to details for boundary treatments, a tree protection plan, a cycle parking plan and traffic calming measures all of which were satisfied (Conditions 2, 4, 6 and 8). There were also four other conditions added relating to the standard 4 years, revoking of the PDO for fences and walls, one ensuring the tree protection was in place before works start and that car parking must be provided prior to occupation of any dwelling.

6.8 As part of this application the agent has sought to include upfront the 'prior to' details for the boundary treatments, tree protection, cycle parking and traffic calming measures. All these details remain as previous satisfied with the only notable change being the adjusted boundary lines to accommodate the re-positioned dwellings but the selected fencing detail remaining the same. The detail remains acceptable and suitably worded conditions will be added to ensure the works are now carried out in accordance with these details rather than provided prior to.

6.9 Conditions will still be added in respect of the standard 4 years, revocation of the PDO for fences and walls, the need for the tree protection to be in place and car parking to be provided before occupancy to ensure consistency with the 2019 approval.

v) Other Material Considerations

6.7 There are to be no significant changes to the foul and public drainage for the estate nor for the house types, access, general road layouts or public open space beyond that already considered acceptable as part of the 2019 application. The respective detail for these elements has been updated and submitted again as part of this application, no objections have been received from Manx Utilities noting only for an adoption agreement outside the

remit of planning, and on this basis remains acceptable. It is noted that the Road Safety Audit approved for 2019 doesn't include the reconfigured roadway and parking now proposed in front of the re-angled B16 dwellings, however that 2019 report stated the original road layout having a sharp right angle could have caused kerb hitting by motorists due to its sharp turn, the proposal now would remove this bend and could to some degree help towards alleviating the previous concern. The proposal in respect of highway and drainage layout, house types and estate access remains acceptable. A nearby property has raised concern regarding the lack of detail provided for any works to 'Bog Lane', whilst this neighbour has indicated this is currently used for access purpose and may likely remain for access purpose for the site, there are limited details for it particularly minded of the Conservation Area. However there are certain levels of development that can be undertaken under the Permitted Development Order by public bodies and/or DOI Highways, in any case a suitably worded condition or note could be added to address this part should it be necessary.

6.8 The existing estate is already below the required Public Open Space (POS), the proposed POS for the additional dwellings takes the form of children's play area and landscaped courtyard central to the development, this Public open space (POS) remains unchanged from that previously approved under 19/00961/B and indicated in the supporting statement as being "Total Open Space provided 2,682 sq m", there is no reasonable reason to reach any other conclusion beyond 19/00961/B on its acceptability, and minded the applicant is the local authority a condition seeking details of POS, any play equipment and timing of delivery would be acceptable in this instance.

vi. Reduction to public sector housing compared to original estate of 101 houses

19/00961/B Brief Planning History Summary

6.9 The 2019 application was approved subject to a legal agreement seeking 18 affordable units, a calculation that the previous officer concluded on the basis that it was originally intended that the estate of 101 public sector homes would be replaced with 101 public sector homes with 32 additional homes and it was on this basis that the Planning Committee approved the application. But through the application it appears that the 101 public sector homes were to be replaced only with 91 public sector homes and so that loss of 10 units was to be replaced by 10 affordable units in the S13 agreement and this taking the total to 18 affordable units (10 of which were to overcome the loss to 91, and 8 being 25% of 32, this leaving 23 houses for sale on open market.

2023 Proposal and Assessment

6.10 This application now seeks the reduction from 101 to 94 which is a loss of 7 public sector houses and given the waiting list for such homes across the Island it is vital to assess that loss.

6.11 The supporting information sets out that existing public sector homes on the site fell below standard and were beyond economic repair and that the key goal was to ensure public sector homes to all the existing tenants and looking to redress the balance between public sector housing and private housing in Castletown where public sector housing accounts for a disproportionately high percentage which they feel impacts inward investment and further development in and to Castletown. They indicate that whilst there will be a loss of 7 houses "there will be a better balance of smaller units that the current situation, with a surplus of typically under occupied 3 bedroom family homes". They state that new homes will be built to much higher standards and including ASHP and PV panels, none of the original tenants will be without housing (noting some may no longer require, desire or be eligible) and the Commissioners believe there will be a surplus of public sector housing after development for allocation to waiting lists or voids created as potential tenants seek to relocate to higher quality housing. The supporting information also indicates "that the cost of the Development

would be defrayed by the income derived from the sale of the additional properties to be sold on the open market, with a proportion (to be reflected in the proposed section 13 agreements) being sold as first time buyer accommodation".

6.12 Financial viability is often at the core of redevelopment schemes and in this case the applicant is the local commissioners and in order to help offset some of the financial costs of the works there was to be an uplift in housing numbers and sale of open market dwellings. Whilst it is a shame that there will be a loss of 7 public sector houses which weighs against the proposal particularly at a time where there is a need for such housing on the Island, it is evident that this is a fairly exceptional circumstance in that the end result will see the replacement and upgrading of 94 public sectors houses to far more modern standard and incorporating new technologies such as ASHP's and PV panels which will help towards reducing the future running costs for occupants and these are all positives that weight in favour of the application and which are considered to outweigh the loss of the 7 public sector houses in this specific case.

vii. Affordable Housing calculation

6.13 The current AHU number has been calculated from the uplift in dwellings beyond 94 and using the 25% requirement set out in Housing Policy 5. The 39 house uplift equates to the need for 9.75 AHU and the proposal in this case has rounded this figure up proposing 10 AHU. This figure meets with requirements of HP5 and this would need to form part of the new S13 agreement to ensure their delivery and in this respect the proposal is considered acceptable.

6.14 It is noted that the applicants have sought all the AHU to be constructed in the final phase of the development along with the open market housing. Whilst normally for new residential estates it would be sought to have the AHU dispersed amongst the wider site and provided across multi stages of the development to ensure it is all provided, this scheme is unlike a new development and is exceptional in that it is a redevelopment of existing public sector housing where there is obligation by the local authority (the applicant) to ensure suitable housing for all existing tenants throughout the course of the works. On this basis it is not considered unacceptable or unreasonable to have the AHU provided in the final phase and the S13 wording will help to ensure its final delivery.

CONCLUSION

7.1 The majority of the works now included within this application duplicate those details approved as part of the 19/00961/B application which was concluded by the previous planning officer to result in a beneficial impact on the environment through the provision of more public open space than previously, better and safer car parking provision, more thermally efficient housing and a consistent material palette. The proposal was considered to be in accordance with the relevant policies and was supported subject to a legal agreement for affordable housing and public open space.

7.2 The changes now come in two key parts; physical development works, and affordable housing numbers. Those physical works relating to re-positioning of 16 dwellings to accommodate the relocation of 2 accessible bungalows, including the re-alignment of two other dwellings and associated access and car parking adjustments to accommodate new EV charging points are all considered to have an acceptable visual, amenity and highway safety impact and not to create any increased or unacceptable harm beyond the works already accepted under 19/00961/B and suitably worded conditions will be added to ensure works are carried out in accordance with the submitted details. Those matters relating to the change of AHU to 10 is considered acceptable in this case and to accord with the 25% figure set in Housing Policy 5, and on an exceptional basis and looking at the bigger picture in the overall

replacement and upgrading of 94 public sector houses and the redevelopment of their immediate surroundings including upgraded internal road networks and increased public space provision that these are all benefits that weight in favour of the scheme and which are considered in this exceptional circumstance to outweigh the loss of 7 public sector houses in this specific case.

7.3 An updated new S13 agreement is required to address the changes to and secure the 10 affordable units and a condition relating to the Public Open Space.

8.0 INTERESTED PERSON STATUS

8.1 By virtue of the Town and Country Planning (Development Procedure) Order 2019, the following persons are automatically interested persons:

- (a) the applicant (including an agent acting on their behalf);
- (b) any Government Department that has made written representations that the Department considers material;
- (c) the Highways Division of the Department of Infrastructure;
- (d) Manx National Heritage where it has made written representations that the Department considers material;
- (e) Manx Utilities where it has made written representations that the Department considers material;
- (f) the local authority in whose district the land the subject of the application is situated; and
- (g) a local authority adjoining the authority referred to in paragraph (f) where that adjoining authority has made written representations that the Department considers material.

8.2 The decision maker must determine:

- o whether any other comments from Government Departments (other than the Department of Infrastructure Highway Services Division) are material; and
- o whether there are other persons to those listed above who should be given Interested Person Status

PLANNING AUTHORITY AGENDA FOR 12th February 2024

Item 5.7

Proposal : **Erection of single storey side extension, Loft conversion, associated external remodelling and landscaping**

Site Address : **15 Third Avenue**
Douglas
Isle Of Man
IM2 6AL

Applicant : **Mr James Brookman**

Application No. : **23/00654/B- [click to view](#)**

Planning Officer : **Mr Paul Visigah**

RECOMMENDATION: To APPROVE the application

Recommended Conditions and Notes for Approval

C : Conditions for approval

N : Notes (if any) attached to the conditions

C 1. The development hereby approved shall be begun before the expiration of four years from the date of this decision notice.

Reason: To comply with Article 26 of the Town and Country Planning (Development Procedure) Order 2019 and to avoid the accumulation of unimplemented planning approvals.

C 2. Prior to the installation of external finishes and materials, a schedule of materials and finishes and samples of the materials to be used in the construction of the external surfaces, including roofs, windows, doors and external walls, shall be submitted to and approved in writing by the Department. The development shall not be carried out unless in accordance with the approved details and retained thereafter.

Reason: In the interests of the character and appearance of the site and surrounding area.

C 3. Notwithstanding the details that have been submitted, a detailed landscaping plan shall be submitted to the Department in writing to be agreed within three months of this approval.

The landscape plan shall include details of hard surfacing materials, planting plans (at a scale not less than 1:100), written specification of planting and cultivation works to be undertaken and schedules of plants, noting species, plant sizes and proposed numbers / densities and a programme for the implementation, completion and subsequent management of the proposed landscaping.

No Wildlife Act 1990 Schedule 8 non-native invasive plant species, or cherry laurel, Rugosa rose or buddleia are to be planted on site.

Any proposed planting should be in accordance with details contained within a Planting Palette provided as part of the plan.

The hard surfacing details shall include details of planters and samples showing the texture and colour of the materials to be used.

The development shall be carried out in accordance with the approved scheme and shall be retained as such thereafter.

Reason: To ensure that the development achieves a high standard of design, layout and amenity and makes provision for hard and soft landscaping which contributes to the creation of a high quality environment.

N 1. FOR YOUR INFORMATION

Please be aware that a ban on the installation of fossil fuel heating systems in any new building(s) and or extension(s), will come into force on 1st January 2025.

You therefore are encouraged to ensure that your proposed development includes alternatives to fossil fuel heating systems if you believe that such works will not be completed by that date.

To this end, if you propose an alternative, such as air source or ground source heat pump(s), or any other heating system that would require planning approval, the details of this should be addressed now. This may require you to resubmit your planning application to accommodate the alternative permitted heating system proposed.

Reason for approval:

The proposals accord with General Policy 2, Strategic Policies 1 and 3, and Transport Policies 6 and 7 of the IOM Strategic Plan 2016, and the principles of the Residential Design Guidance 2021, as the proposal would not harm the use and enjoyment of the application site, neighbouring properties, and the character of the area.

Interested Person Status – Additional Persons

It is recommended that the owners/occupiers of the following properties should be given Interested Person Status as they are considered to have sufficient interest in the subject matter of the application to take part in any subsequent proceedings and are not mentioned in Article 4(2):

12 Second Avenue, Douglas;
13 Third Avenue, Douglas;
17 Third Avenue, Douglas;

as they satisfy all of the requirements of paragraph 2 of the Department's Operational Policy on Interested Person Status.

It is recommended that the owners/occupiers of the following properties should not be given Interested Person Status as they are not considered to have sufficient interest in the subject matter of the application to take part in any subsequent proceedings and are not mentioned in Article 4(2):

14 Third Avenue, Douglas;
16 Third Avenue, Douglas;
'Kionslieu', 20 Third Avenue, Douglas;

as they do not refer to the relevant issues in accordance with paragraph 2C of the Policy and as they have not explained how the development would impact the lawful use of land owned

or occupied by them and in relation to the relevant issues identified in paragraph 2C of the Policy, as is required by paragraph 2D of the Policy.

Planning Officer's Report

THIS APPLICATION IS REFERRED TO THE PLANNING COMMITTEE AS THE APPLICATION IS RECOMMENDED FOR APPROVAL AND THERE ARE MORE THAN 4 OBJECTIONS FROM MEMBERS OF THE PUBLIC

1.0 THE APPLICATION SITE

1.1 The application site is the residential curtilage of 15 Third Avenue, Douglas, which is a two storey detached property sited on the south western side of Third Avenue in Douglas that ends in a cul de sac. The application is bounded by a stone wall to the front which only opens up at the vehicular access, a low masonry wall on the northern, and fencing on the western boundary. A perforated masonry wall and fencing form the boundary with 'Step A Side', 13 Third Avenue, Douglas, to the south east boundary. Mature hedging also bounds most of the site boundary with neighbouring property, although there are gaps along the hedging.

1.2 The existing dwelling is finished in a pebble dash render, although the front elevation has a combination of pebble dash render, smooth cement render and stone cladding finish. The dwelling has a pitched roof which slopes to the sides as the dwelling has a prominent gable front elevation and is finished in Double Roman concrete tiles. There is an integral garage which has a flat roof over and wraps round part of the north elevation. The dwelling also has a flat roofed living roof extension which projects onto the rear garden.

1.3 The street scene is varied in its current context and comprises of a mix of two storey detached dwellings, with a significant proportion of them rendered and finished in a light colour, although the mix of materials include pebble dash render, Sand and cement render, stone wall cladding, red brick cladding, and tile shingle cladding. There is a balance between modern and traditional properties within the street scene, with a varied range of designs, finishing, themes, and character that reflect their age.

1.4 The dwellings at the end of the close (Nos. 15, 16, 17, 18 and 20) do not have similar front building lines as the other dwellings within the cul de sac as they are set further back from the main road and project further into their rear gardens, placing their rear elevation further back. There is also no uniform built density for the dwelling plots here.

2.0 THE PROPOSAL

2.1 The planning application seeks approval for the erection of single storey side extension, Loft conversion, associated external remodelling and landscaping.

2.2 The proposed works would comprise the following:

2.2.1 Erection of a single storey side extension to the southern elevation of the dwelling that would house an open plan living/kitchen/dining area. The front of the extension would be 5.5m wide, the rear 4.9m wide, while the length would be 16.1m long. The extension would be 4.6m tall to the roof ridge and 3.2m to the eaves. The living/kitchen/dining extension element would have a flat roofed lanterns over its hipped roof.

2.2.2 The finishing of the side (south) elevation of the extension will be in painted render with quoins at the ends, while the front and rear elevations (which forms part of a wraparound roof system) would be finished in horizontal clapper board cladding (white) with painted architrave detailing window and door surrounds as the main dwelling. Its roof would be finished in will be finished in Double Roman concert tiles with matching ridge tiles (grey).

2.2.3 The works would also include external alterations to the main dwelling through cladding of its external walls in in horizontal clapper board cladding (white) with painted architrave detailing window and door surrounds, the inclusion of timber painted columns (white), natural stone dry laid with quoins to be retained (natural green slates). The roofing over the main dwelling will be finished in Double Roman concert tiles with matching ridge tiles (grey). The garage roofing and side extension will be in natural slate. All windows would be UPVC casement windows. Front door would be painted hardwood with partial glazing and side lights (black), while the patio and French doors will be fully glazed UPVC units. Garage door is to be painted hardwood.

2.3 Additional works would include:

- i. Installation of five new roof lights over the main roof of the dwelling (two on the northern roof plane and three on the southern roof plane). This can be installed as permitted development due to their size and number.
- ii. Introduction of a new chimney stack on the north elevation of the dwelling. This chimney stack will sit lower than the roof ridge of the main dwelling.
- iii. Closing up the first floor window on the north elevation.
- iv. Installing a new arched gable window on the second floor rear (west) elevation of the dwelling, and a new circular gable window on the second floor front (East) elevation.
- v. A new side door with lights and two full height windows would be installed on the ground floor north elevation of the dwelling.
- vi. Landscaping of the site, including creating a new area of outdoor terrace that would be set 20mm lower than the finished floor height for the ground floor and lower than the rear garden area.

2.4 No trees would be removed to facilitate the development. The applicants have also indicated on the application form that there would be no site level changes. The number of parking spaces beside the garage provision will remain unchanged (2 spaces).

2.5 The applicants have provided a number of supporting information (Cover Letter, Response to Planning Comments, Design Commentary, and Covering Emails) which sets out the site context, context of locality, describes the proposal and gives detail of potential site constraints, provides details of corrections and clarifications, and concludes by stating that development of this site is appropriate for the size of the plot, noting that privacy issues have been addressed and improved upon, that the design of the extension is responsive to site constraints, responding to these through positioning, floor levels and roof forms, while elevating the dwelling to meet current living requirements. It further confirms that the material finishes reflect the street scene, with the reuse of existing materials and resources on site, whilst stating that being predominantly finished in white, the dwelling would not be so different as to stand out. Further to the above, it states that the introduction of roof canopies directly reflects those in the vicinity, and that the proposed cladding, remodelling and modernisation would significantly contribute to improvements in thermal properties and environmental credentials in line with current policy. The proposed landscaping would further add to the local amenity and surrounding established gardens to the benefit of immediate neighbours and surrounding area. These also address the material context and building lines within the immediate street scene of Third Avenue.

3.0 PLANNING POLICY

3.1 Site Specific

3.1.1 The application site is located within an area identified as being Predominantly Residential on the Area Plan for the East (Map 4 - Douglas), and the site is not within a Conservation Area. The site has low likelihood of flood risks, there are no registered trees on the site, and the site is not within a registered tree area. As such, the following parts of the Strategic Plan are relevant:

3.2 National: STRATEGIC PLAN (2016)

- a. General Policy 2 - 'Development Control' considerations.
- b. Paragraph 8.12.1 - General presumption in favour of extensions to existing properties (excluding Conservation Areas or Registered Buildings).
- c. Strategic Policy 1 - Efficient use of land and resources.
- d. Strategic Policy 3 - Development to safeguard character of existing towns and villages.
- e. Strategic Policy 5 - Design and visual impact.
- f. Environment Policy 4 - protects biodiversity (including protected species and designated sites).
- g. Environment Policy 42 - character and need to adhere to local distinctiveness.
- h. Transport Policy 7 and Appendix A.7.6 - Parking Provisions
- i. Community Policy 7 - Designing out criminal and anti-social behaviour
- j. Community Policy 10 - Proper access for firefighting appliances
- k. Community Policy 11 - Prevention for the outbreak and spread of fire

4.0 OTHER MATTERIAL CONSIDERATIONS

4.1 The Residential Design Guide (July 2021) also contains guidance in Sections 2.0 on sustainable construction, Section 3.1 on Local Distinctiveness, 4.0 on Householder Extensions, while Section 7.0 deals with Impact on Neighbouring Properties.

4.2 IOM Biodiversity Strategy 2015 to 2025 seeks to manage biodiversity changes to minimise loss of species and habitats, whilst seeking to maintain, restore and enhance native biodiversity, where necessary. Section 21 deals with Habitat loss actions through promoting a policy of 'no net loss' for semi-natural Manx habitats and species and to ensure that unavoidable loss is replaced or effectively compensated for.

5.0 PLANNING HISTORY

5.1 The application site has not been the subject of any previous planning applications considered relevant to the determination of the current application.

6.0 REPRESENTATIONS

Copies of representations received can be viewed on the government's website. This report contains summaries only.

6.1 Representation from the Department of Infrastructure (DOI) Highways Division confirms that they find the proposal to have no significant negative impact upon highway safety, network functionality and /or parking. The Applicant is advised to consider installing an electric vehicle charging point to aid net zero objectives (14 June 2023/8 August 2023/18 September 2023/10 January 2024/30 January 2024).

6.2 Douglas Borough Council have no objections to the application (18 August 2023/29 September 2023/19 January 2023). They state that the development must not prohibit the refuse bins from being removed from the highway to be stored within the curtilage of the property between refuse collections.

6.3 The Department of Infrastructure (DOI) Highways Drainage have stated that allowing surface water runoff onto a public highway would contravene Section 58 of the Highway Act 1986 and guidance contained in section 11.3.11 of the Manual for Manx Roads. They advise the applicant to be aware of and demonstrate compliance with the above clauses (12 January 2024).

6.4 The DEFA The Ecosystem Policy Team notes that an area of hedge will need to be removed to facilitate the new extension, but have no objection as the proposed landscaping, including replacement hedging, is to be undertaken as per the Proposed Site Plan (Drw. No.

P9002 Rev02). They however, request that the landscaping be secured by a condition should approval be granted. They further note that no landscaping species details have been provided, and request a condition for no landscaping to be undertaken with Wildlife Act 1990 Schedule 8 Part II invasive plant species, or cherry laurel, Rugosa rose or buddleia (25 January 2024).

6.5 The owners/occupiers of the following properties object to the application:

- a. 12 Second Avenue (5 June 2023);
- b. 13 Third Avenue (30 June 2023/29 August 2023/23 January 2023);
- c. 14 Third Avenue (1 July 2023);
- d. 16 Third Avenue (28 June 2023/31 August 2023);
- e. 17 Third Avenue (17 June 2023/31 August 2023/29 January 2023) and
- f. 'Kionslieu', 20 Third Avenue (18 June 2023).

6.5.1 They object to the application on the following grounds:

- o Overlooking from balcony/veranda/terrace.
- o Potential damage to existing boundary treatment (fencing).
- o Potential overbearing impacts/and overshadowing.
- o The cladding described in the proposal is inappropriate for Third Avenue, and does not blend with the styles of properties found (render, pebbledash, brick).
- o The design of the proposed extensions are out of keeping with the character and appearance of the Avenue. No property on this Avenue has roof dormer windows, balconies or columns.
- o The increase in square meterage (67.5%), does not seem in proportion with the plot size and seems excessive. The size of the proposed works appear disproportionate to the original building.
- o Loss of view.
- o Refer to contents within deeds regarding restrictions on properties within Third Avenue.
- o Significant Loss of garden area which contributes to the amenity of the area.
- o They refer to recent approval at 14 Third Avenue and note that the design of this application did not affect the front elevation. Whilst noting that the size of the extension was significant, they consider that the applicants considered neighbours before deciding on key elements.
- o They refer to intervisibility and consider that existing hedging and fencing on boundary limits its occurrence.
- o They refer to shed/decking/ structures alongside boundary of application site which may be capable of being undertaken without planning approval under the Town and Country Planning (Permitted Development) Order 2012, but not clarified within the current scheme.
- o They refer to the position of the building with regard to building lines and potential overbearing impact.

6.4 Following review of the comments made by the neighbours, the applicants have submitted amended plans which they consider would address the concerns. They have also provided an agents response which addresses some of the issues raised. This list has been amended to only relate to the matters that are still relevant to the scheme now amended, as references to Juliet balcony, garage, dormers, and window situated on the northern side elevation of number 13 Third Avenue have been removed.

- o They state that the scale on the existing / proposed elevations has been amended to 1:50.
- o The boundary remains unchanged and does not form part of the application, the nature of the boundary has been noted.
- o Building Heights, Levels.

- They acknowledge the concerns in respect to the finished floor levels and exterior garden levels as highlighted, however believe the information provided has been misunderstood.
 - They state that there are four steps internally and not the two resulting in the floor level being below the existing ground floor level of -720mm overall.
 - They refer to garden levels remaining largely the same as existing on site. All dimensions on the drawings are labelled from the finished floor level as the ground levels fluctuate along its length.
 - They state that the extension in its proposed form, would be no less impactful than a permitted development extension on the rear elevation which would extend beyond the line of the proposed extension at a maximum height of 4metres, albeit further from the boundary.
- o Material Finishes.
- They state that the clapper board/weather board finish would have a nominal impact visually, as the property would appear white in nature not dissimilar to any white rendered finish.

o They conclude by stating that the proposed extension and finished dwelling is appropriate for the size of the plots previously established. Privacy issues continue to have been addressed. The design of the extension is responsive to site constraints, responding to these through positioning, floor levels and roof forms, while elevating the dwelling to meet current living requirements. The material finishes reflect the street scene, with the reuse of existing materials and resources on site. Predominantly finished in white the dwelling would not be so different as to stand out. The proposed cladding, remodelling and modernisation would significantly contribute to improvements in thermal properties and environmental credentials in line with current policy. Proposed landscaping would further add to the local amenity and surrounding established gardens to the benefit of immediate neighbours and surrounding area.

7.0 ASSESSMENT

7.1 The key issues to consider in the assessment of this planning application are;

- a. the impact of the proposed extensions and alterations on the character and appearance of the existing dwelling and streetscene;
- b. whether there would be any impacts on neighbouring living conditions as a result of the development; and
- c. Highway Safety/parking impacts.

7.2 VISUAL IMPACT (GP2, STP 3, EP 42 & RDG 2021)

7.2.1 With regard to the proposed alterations, it is noted that a significant proportion of the works will be visible from the street scene, and have varying degrees of impact on the appearance of the dwelling and street scene.

7.2.2 The works to convert the existing garage, change the existing window and door styles, integrate a hip roof over the existing garage, , include a new chimney, as well as erect a new living room/kitchen/dining extension although changing the appearance of the existing dwelling to more reflect a Georgian style dwelling is considered to sit well with the site and street scene which is considerably varied with no established pattern or architectural style, and as such is considered acceptable. From review of the current appearance of the dwelling on site and the works that have been proposed, it would be difficult to argue that the appearance of the dwelling has not improved over the existing.

7.2.3 It is also considered that the nature of the site topography and the presence of shrubs and tree clusters around its boundary, as well as the size and scale of neighbouring dwellings would enable the dwelling to sit well within the site and immediate vicinity. It should be noted

that the street scene comprises a mix of building designs, styles and property sizes (most of which are large relative to their site area) which makes the proposed change fit seamlessly into the existing street scene which is diverse in its current state; without a dominant architectural style. Overall, any impact on the character and appearance of the area and the site itself as a result of the elements of the proposal that have been mentioned above would be minimal and in accordance with General Policy 2.

7.2.4 With regard to the landscaping works, it is considered that the visual aspects of the site and surroundings would be improved, and the new and additional plantings would improve the biodiversity of the site. In this regard, the proposals are seen to be acceptable and accord with the objectives of Policies General Policy 2 (b & f) in seeking to improve the natural environment.

7.2.5 The comments which refer to the density of development within the site and its impact on the character of the area is noted. However, the total foot print of the dwelling after the works would constitute a built development of about 240.83sqm which would make up about 32.2 Percent of the total plot area which measures about 748sqm, and this is not considered to be at variance with the general character of the locality when the proportion of built development relative to the total plot area is factored in for every suite in the immediate vicinity.

7.2.6 Accordingly, whilst the side extension, window alterations and door replacement, and other alterations to the appearance of the dwelling, as well as the landscaping works would alter the appearance of the site and dwelling, it is considered that the proposed works would improve the appearance of the dwelling and site, and in turn the character and appearance of the area which is varied in its current context, and as such compliant with General Policy 2 (b & c) and Strategic Policy 3 of the Strategic Plan.

7.3 IMPACT ON NEIGHBOURS (GP 2 & RDG 2021)

7.3.1 In considering potential impacts on neighbouring amenity, it is considered that the dwellings most likely to be impacted would be No.13 to the south, No. 17 to the north, and No.12 Second Avenue to the west. It is not considered that the works would have any impacts on No. 14 Second Avenue which is also situated west due to the distance of the works from this dwelling, and the nature of its boundary treatment comprising mature trees and hedges, which completely screens views into its rear garden.

7.3.2 Impacts on No. 13 Third Avenue

7.3.2.1 The proposed side extension which rises to about 4.6m (1m than the previously proposed 5.7m height) at the section adjacent to No. 13 Third Avenue, and would be positioned about 2.1m from the side elevation of the neighbouring property. However, its front elevation would be set back by about 4.4m from the position of the front elevation of this neighbouring dwelling (4.4m behind the previous position which was to be at par with the neighbour), and would be considerably away from the window on the north elevation of this neighbour. As such, any overshadowing impacts on this window which is meant to provide light to this part of No. 13 has been overcome.

7.3.2.2 The proximity of the side extension being set at 2.1m from No. 13 is also noted. However, given that the proposed extension would be positioned north of the neighbouring dwelling, where overshadowing is expected to be diminished given that the impact of overshadowing will increase if the new extension is to the south of a neighbouring property as the sun's orientation is east to west (See section 7.3 of the Residential Design Guide that deals with Loss of Light/Overshadowing).

7.3.2.3 With regard to overbearing impacts, it is considered that the extension is positioned close to a boundary with mature hedges which rise to about 3m and as such would serve to diminish any concerns in terms of overbearing impacts as the plantings here would soften the impact of the proposed development. Besides, the eaves of the extension would be set at 3.2m (only slightly taller than the mature hedges on the boundary), with the roof leaning away from No. 13, which would further diminish any concerns in terms of overbearing impacts.

7.3.2.4 The additional comments made by the occupants of No. 13 which refer to the proximity of the extension to the boundary by No. 13, and the extension of the impact of the extension further into their garden area is noted, and this would have been a concern if the proposed side extension were to be a two storey extension, but the proposed side extension would be single storey and positioned north of the neighbouring dwelling where there exists mature hedging as has already been noted to diminish any concerns. It is also considered that the proposed proximity would not be an aberration in the locality given the proximity of other dwellings within the street scene which also involves two storey element unlike the application site. Currently No. 13 has a two storey element which sits 2.6m from No. 11. Also, No. 7 sits 2.7m from No. 5, while No. 12 sits 2.8m from No.10. Given that the proposed works would only consist of a single storey extension being built closer to a two storey section of the abutting dwelling, it is not considered that this would exacerbate any concerns or be at variance with the character or appearance of Third Avenue.

7.3.2.5 The positioning of part of the side extension further into the rear garden is also not considered to be a concern as the works would only sit 2.4m further of the existing building extent on the south elevation, particularly as it is already established that Nos. 15, 16, 17, 18 and 20 site further back of the established rear building line for the other dwelling on Third Avenue. As such, it is not considered that the works which would only marginally extend the rear elevation on the south elevation would be at variance with the established building layout at this part of the cul de sac.

7.3.2.4 Based on the foregoing, it is not considered that any impacts in terms of loss of light and overbearing impacts would be sufficient to warrant refusal of the scheme, given the prevailing site character and context.

7.3.3 Impacts on No. 12 Second Avenue

7.3.3.1 In terms of impacts on No. 12 Second Avenue, the key concern is the potential overlooking from the proposed arched gable window on the second floor rear (west) elevation of the dwelling. With regard to this concern, the applicants have provided a Design Commentary (See page 5) which clearly shows that the existing vegetation would prevent overlooking of the rear garden of this property. The existing separating distance of 28m from the rear elevation of No. 12 Second Avenue would also ensure that there are no impacts in terms of overlooking into windows, although the existing vegetation would also further diminish this concern.

7.3.3.2 It is also considered that the floor level of the proposed garden terrace (which could be carried out as permitted development) would not impact on this neighbouring dwelling being situated within the garden and forms part of the garden features, and as it would be set lower than the general garden ground level, ground level of dwelling and level of existing terrace at the rear of the dwelling. It is also positioned about 18m from the rear of No. 12 Second Avenue where any noise impacts would not be significant, with the existing hedging also serving as sound buffers.

7.3.4 Impacts on No. 17 Third Avenue

7.2.4.1 In terms of impacts on No. 17, it is not considered that the raised garage roof would create any concerns with regard to loss of light or overbearing impacts given that the existing

mature trees and hedging on the boundary would provide screening for the development with little or no views afforded the development when viewed from No 17.

7.2.4.2 Likewise, it is not considered that any overlooking would result for No. 17 as the existing window on the first floor north elevation of the application site would be closed up. Also, the Juliet balcony which was previously proposed on the west elevation, with potential to impact parts of the rear garden of No. 17 has been excluded from the proposal, so this concern no longer exists. Moreover, the new rooflights to be proposed on the northern roof plane would be at a position and angle that would not result in overlooking concerns, although it is noted that these could be installed under Permitted Development and as such are not a concern with the current proposal.

7.4 IMPACTS ON PARKING AND HIGHWAY SAFETY (TP7 & GP2)

7.4.1 The double garage which currently exists at the property would be retained, and there would be no changes to the vehicular access to the site. In addition, the site layout would be altered to provide allowance for more off road parking on site with more allowance afforded for pedestrian movements on site. Vehicles would also be able to leave the site in forward gear which would be an improvement over the existing, thus resulting in improved parking and highway safety for the site.

7.4.2 Likewise, Highway Services have assessed the proposal and find it to have no significant negative impact upon highway safety, network functionality and /or parking, and raise no objection to the proposal. Therefore, it is considered that this element of the scheme complies with the requirements of the aforementioned policies.

7.5 OTHER MATTERS

7.5.1 Deeds and Covenants

7.5.1.1 The issue of Covenants or details contained within Deeds are civil legal issues which have been raised by the neighbours are matters that lie outside the scope of the planning application as land ownership is a civil matter and would hold no weight in the assessment of a planning application. Any determination under the Town and Country Planning Act 1999 can neither create nor detract from land ownerships, any right of way, or other civil legal rights and obligations as may exist between the parties. Considering these bear no weight in a planning decision, the application has been assessed with respect to the aforementioned Strategic Plan policies which set the benchmark for assessing proposed developments, with no reference made to the stated deeds and covenants.

7.5.2 Other Works under Permitted Development

7.5.1.2 The site plan shows other works such as erection of a shed, terrace, and other structures on the site which the agent states would be carried out as permitted development. As these works are not proposed to be carried out within the current scheme, they fall outside the scope of the current application and as such are not assessed as part of the current proposal. Moreover, no details regarding height, position of floor levels and general appearance/external finish has been submitted on these within the scheme, beside their possible locations on the site. Any of such works would be the subject of the Town and Country Planning Permitted Development Order and subject to the conditions therein.

7.5.1.3 The matters related to loss of view, property boundaries and general construction impacts (including construction impacts on boundary treatment), bear no weight as material planning considerations and as such cannot be considered in the assessment of this planning application.

8.0 CONCLUSION

8.1 Overall, it is considered that the design, highway impacts and visual impacts are acceptable, and the proposal would not result in significant harm to public or private amenity. The application is, therefore, recommended for approval.

9.0 INTERESTED PERSON STATUS

9.1 By virtue of the Town and Country Planning (Development Procedure) Order 2019, the following persons are automatically interested persons:

- (a) the applicant (including an agent acting on their behalf);
- (b) any Government Department that has made written representations that the Department considers material;
- (c) the Highways Division of the Department of Infrastructure;
- (d) Manx National Heritage where it has made written representations that the Department considers material;
- (e) Manx Utilities where it has made written representations that the Department considers material;
- (f) the local authority in whose district the land the subject of the application is situated; and
- (g) a local authority adjoining the authority referred to in paragraph (f) where that adjoining authority has made written representations that the Department considers material.

9.2 The decision maker must determine:

- o whether any other comments from Government Departments (other than the Department of Infrastructure Highway Services Division) are material; and
- o whether there are other persons to those listed above who should be given Interested Person Status.

9.3 The Department of Environment Food and Agriculture is responsible for the determination of planning applications. As a result, where officers within the Department make comments in a professional capacity they cannot be given Interested Person Status.

PLANNING AUTHORITY AGENDA FOR 12th February 2024

Item 5.8

Proposal : Reserved Matters application to PA 22/00669/A for the erection of two residential dwellings addressing siting, landscaping, drainage, means of access, internal layout and external appearance

Site Address : Balla Bluff
Pinfold Hill
Laxey
Isle Of Man
IM4 7HL

Applicant : Mr Richard & Mrs Ann Barks

Application No. : 23/00818/REM- [click to view](#)

Planning Officer : Mr Paul Visigah

RECOMMENDATION: To APPROVE the application

Recommended Conditions and Notes for Approval

C : Conditions for approval

N : Notes (if any) attached to the conditions

C 1. The development hereby approved shall be begun before the expiration of four years from the date of this decision notice.

Reason: To comply with Article 26 of the Town and Country Planning (Development Procedure) Order 2019 and to avoid the accumulation of unimplemented planning approvals.

C 2. Prior to the installation of external finishes and materials, a schedule of materials and finishes and samples of the materials to be used in the construction of the external surfaces, including roofs, windows, doors and external walls, shall be submitted to and approved in writing by the Department. The development shall not be carried out unless in accordance with the approved details and retained thereafter.

Reason: In the interests of the character and appearance of the site and surrounding area.

C 3. The development hereby approved shall not be occupied or operated until the access/driveway, parking and turning areas have been provided in accordance with the approved plans (Drawing No. No. B/8846/1). Such areas shall not be used for any purpose other than for access, parking, and turning of vehicles associated with the development and shall remain free of obstruction for such use at all times.

Reason: To ensure that the development will not compromise the free flow of traffic or highway safety.

C 4. Prior to the commencement of the development hereby approved, details of the proposed foul sewage and surface water drainage system[s] including soakaway shall be submitted to and approved in writing by the Department. The strategy shall not include any discharge to the abutting Manx Electric Railway Line to the southeast. No part of the development shall be occupied until the agreed foul sewage and surface water drainage system has been implemented and it shall be retained as such thereafter.

Reason: To ensure that adequate drainage measures are provided, and retained, in the interests of the amenity of the area.

C 5. Within 3 months of this approval becoming final, details of a restriction zone along south-eastern boundary of the site to prevent access to the railway and ensure the safety of residents and others, shall be submitted to and approved in writing by the Department. This plan shall clearly mark out the protection zone within the site, and show details of restrictive measures to be implemented on site. The protection measures shall remain in place throughout the construction phase and use of the approved development.

Reason: To prevent access to the Electric Railway Line in the interests of safety on the site.

C 6. The development hereby approved shall be undertaken in accordance with Precautionary Working Method Statement for Common Lizard set out in Appendix IV of the Protected Species Survey prepared by Ecology Vannin Consultancy Services and dated August 2023. The development shall not be carried out other than in accordance with the submitted Method Statement.

Reason: To provide adequate safeguards for the ecological species existing on the site.

C 7. The on-site Landscaping and Wildlife Mitigation Measures which includes native hedge creation, hedge retention, boundary enhancement planting (except fuchsia), log piles, universal nest bricks and natural wildlife area shall be undertaken strictly in accordance with the updated Proposed Site Plan (Drg B/8846/12) and Proposed Floor Plans and Elevations (Drg B/8846/2 (A)).

Areas Retained for Natural Wildlife shown on the Proposed Site Plan with Ecology Annotations (Drawing No. B/8846/12) shall be created and managed in accordance with the details indicated on the plan prior to the occupation of the dwellings hereby approved. The Natural wildlife Area must be retained in a natural state and protected from damage and disturbance during and after construction, apart from the small areas of the site to be used for the hibernacula and log piles, which should be created by hand.

The hedge along the western boundary of the natural area should be planted in the first planting season following the commencement of construction and then the area avoided throughout construction activities.

The development shall not be carried out other than in accordance with the approved plans. The on-site Landscaping and Area for Natural Wildlife shall be retained thereafter.

Reason: In the interests of protecting and enhancing the biodiversity of the environment.

C 8. Within three months of the commencement of the development hereby approved, details of the Nest Bricks to be installed on the northeast elevation of the new dwellings shall be submitted to an approved in writing by the Department. These details shall include the specifications and samples of the net brick of suitable for crevice roosting species on the northeast elevation of the buildings. The nest bricks shall be retained thereafter.

Reason: To provide adequate safeguards for the ecological species existing on the site.

C 9. The existing trees marked for retention on the Outline Tree Protection Plans (Tree Works Plans) Drawing No. WTC-TWP 01, and Proposed Site Plan with Ecology Annotations shall be retained in accordance with the approved details. Any retained tree which within five years of the approved development being occupied or completed (whichever is the later)

dies, are removed or become seriously damaged or diseased shall be replaced by a similar species, of a size to be first approved in writing by the Department, during the next planting season or in accordance with a programme of replacement to be agreed in writing with the Department.

Reason: To safeguard the existing trees and planting to be retained within the site.

N 1. FOR YOUR INFORMATION

Please be aware that a ban on the installation of fossil fuel heating systems in any new building(s) and or extension(s), will come into force on 1st January 2025.

You therefore are encouraged to ensure that your proposed development includes alternatives to fossil fuel heating systems if you believe that such works will not be completed by that date.

To this end, if you propose an alternative, such as air source or ground source heat pump(s), or any other heating system that would require planning approval, the details of this should be addressed now. This may require you to resubmit your planning application to accommodate the alternative permitted heating system proposed.

Reason for approval:

It is considered that the proposal has no significant adverse impacts upon public or private amenities, the site ecology, or highway safety, and therefore complies with Strategic Policies 1, 2, 4 and 5, General Policy 2, Housing Policy 4, Transport Policy 4, Transport Policy 7, and Environment Policies 4 and 5 of the Isle of Man Strategic Plan 2016, and the principles promoted by the Residential Design Guide.

Interested Person Status – Additional Persons

It is recommended that the following Government Departments should be given Interested Person Status on the basis that they have made written submissions relating to planning considerations:

Manx National Heritage
IOM Railways

Planning Officer's Report

THIS APPLICATION IS REFERRED TO THE PLANNING COMMITTEE AS THE PLANNING APPLICATION COULD BE CONSIDERED CONTARY TO THE DEVELOPMENT PLAN BUT RECOMMENDED FOR APPROVAL

1.0 THE SITE

1.1 The application site is a parcel of undeveloped land which is located on the south-eastern side of the A2 highway as you approach Laxey from Pinfold Hill. The eastern boundary of the site is flanked by the Manx Electric Railway which runs parallel to the site and the Laxey Bay.

1.2 The application site slopes steeply towards the south-eastern boundary, with the steep topography creating a difference of 18m between the level of the abutting highway (A2) and the south-eastern boundary which is level with the Manx Electric Railway line.

1.3 There is a thick line of vegetation that shields the site from the rail line running along the eastern boundary of the site, while the roadside boundary comprises a stone wall with sod bank over some sections. There are some trees, gorse and grass within the site area. To the North West boundary is situated a dwelling 'Sun Dawn', while 'Balla Bluff' is situated on the south-western boundary.

1.4 A cross section through the site shows that the site would require significant levels of filling and levelling to enable the erection of new development on site. The entire site area measures about 2,542.7sqm (0.63acres) when viewed horizontally. The site frontage which abuts the highway measures about 100m, while the site depth is between 30 to 35m.

2.0 THE PROPOSAL

2.1 Planning approval is sought for outstanding Reserved Matters application to PA 22/00669/A for the erection of two residential dwellings addressing siting, landscaping, drainage, means of access, internal layout and external appearance.

2.2 The proposed scheme would be for two detached dwelling types (Type A and B).

2.2.1 Type A would be for a split level dwelling on footprint measuring 16.4m x 6m, with layout accommodating an open plan living room/kitchen, a cloakroom and hallway, two bedrooms and a bathroom on the first floor, while the lower ground floor level would serve as storage. Access to the lower ground floor would be via an external door with stairway to the side of the dwelling.

2.2.2 The type B dwelling would be a three bedroom dwelling on a footprint measuring 20.4m x 6m. This dwelling's layout would provide for an open plan living room/kitchen, a cloakroom and hallway, three bedrooms (one with ensuite), and a bathroom. The entire lower ground floor area would also serve as storage which would be accessed via an external door with stairway to the side of the dwelling.

2.3 These dwellings which would appear as single storey dwellings when viewed from the front elevation, while the rear would appear as two storeys. These dwellings would be finished externally in smooth grey face bricks on the external walls, while the roof would be finished in dark grey concrete roof tiles. The walls of the lower ground floor would be finished in sand cement render. All the window units would be double glazed units (colour not stated). Dwelling type A would have a grey fibreglass chimney set midway on its roof plane, while dwelling type B would have a black flue projecting about 500mm above its roof plane.

2.4 The application is supported by a Planning Statement, Protected Species Survey, and Arboricultural Impact assessment.

3.0 PLANNING POLICY

3.1 The site lies within an area not zoned for development on the Area Plan for the East, Map 7 - Laxey, and marked to be outside the settlement boundary, although the site is surrounded by land zoned as Predominantly Residential Use. The site is not within a Conservation Area or within a Flood Risk Zone. There are no Registered trees on the site, and the site is also not within a Registered Tree Area.

3.2 National: STRATEGIC PLAN (2016)

3.2.1 The Strategic Plan stipulates a general presumption against development in areas which are not designated for a particular purpose and where the protection of the countryside is of paramount importance (EP 1 and GP3). However given there is an existing dwelling on the site, it is relevant to consider Housing Policy 15 which makes provision for extensions or alterations to traditional properties in the countryside. Housing Policy 16 is also relevant as the dwelling has some modern elements.

3.2.2 Relevant Strategic Plan Policies:

- a. General Policy 3 - Exceptions to development in the countryside.
- b. General Policy 2 - General Development Considerations.
- c. Environment Policy 1 - Protection of the countryside and inherent ecology.
- d. Environment Policy 3 - Seeks to prevent unacceptable loss of or damage to woodland areas.
- e. Environment Policy 22 - pollution.
- f. Environment Policy 42 - new development should be designed to take into account the character and identity of the area.
- g. Housing Policy 1 - Refers to housing needs which includes enabling 5,100 additional dwellings (net of demolitions), and including those created by conversion, to be built over the Plan period 2011 to 2026.
- h. Housing Policy 4 - New housing will be located primarily within our existing towns and villages, or, where appropriate, in sustainable urban extensions of these towns and villages. Refers to exceptional circumstances where new housing will be permitted in the countryside.
- i. Strategic Policy 1 - Efficient use of land and resources.
- j. Strategic Policy 2 - Priority for new development to identified towns and villages.
- k. Strategic Policy 3 - Development to respect the character of our towns and villages.
- l. Strategic Policy 4 - development proposals must protect or enhance the nature conservation and landscape quality of urban as well as rural areas.
- m. Strategic Policy 5 - Design and visual impact.
- n. Strategic Policy 10 - development should promote integrated journeys, minimise car use and facilitate other modes of travel.
- o. Spatial Policy 3 - identifies service villages which includes Laxey, especially as it relates to the provision of housing development.
- p. Spatial Policy 5 - new development will be in defined settlements only or in the countryside only in accordance with GP3.
- q. Sustainable Urban Extensions - Planned expansion of a city or town and can contribute to creating more sustainable patterns of development when located in the right place, with well-planned infrastructure including access to a range of facilities, and when developed at appropriate densities.
- r. Transport Policy 1 - Proximity to existing public transport facilities and routes, including pedestrian, cycle and rail routes important for new development.
- s. Transport Policy 3 - New development on or around existing and former rail routes should not compromise their attraction as a tourism and leisure facility or their potential as public transport routes, or cycle / leisure footpath routes.
- t. Transport Policy 7 - Parking considerations/standards for development.
- u. Community Policies 7, 10 and 11 provide guidance in respect of minimising criminal activity and reducing spread of fire, while Infrastructure Policy 5 deals with methods for water conservation.

3.3 Area: AREA PLAN FOR THE EAST

3.3.1 It is also important to consider Landscape proposal 10 of the Area Plan for the East given the proximity of the site to the rail line.

3.3.2 Landscape Proposal 10 (in part):

"For the Manx Electric Railway (including the Mountain Railway) - Views as seen from the Manx Electric Railway are to be preserved; development which would significantly intrude on such views will generally not be supported. Safety and continued operability will require some clear line-of-sight corridors, and these shall be maintained. Prospective Applicants wishing to develop along these routes (which includes sites located adjacent to the boundary of the railway line or within close proximity to the transport corridors) should engage with the Department of Infrastructure 33 for advice ahead of the submission of any planning

application. Prior to any decision on a planning application for which Landscape Proposal 10 is relevant, advice will normally be sought from the Department of Infrastructure".

4.0 OTHER MATERIAL CONSIDERATIONS

4.1 Residential Design Guide (2021)

4.1.1 This document provides advice on the design of new houses and extensions to existing property as well as how to assess the impact of such development on the living conditions of those in adjacent residential properties and sustainable methods of construction.

4.2 The Isle of Man's Biodiversity Strategy (2015 - 2025)

4.2.1 The Department's Biodiversity Strategy is capable of being a material consideration. It seeks to manage biodiversity changes to minimise loss of species and habitats, whilst seeking to maintain, restore and enhance native biodiversity, where necessary.

5.0 PLANNING HISTORY

5.1 PA 22/00669/A which sought Approval in principle for the erection of 2 residential dwellings was granted approval by the Planning Committee on 9 August 2022. The application was approved subject to five conditions, one of which required that an Application for approval of the reserved matters shall be made to the Department before the expiration of two years from the date of the approval (Condition 3).

6.0 REPRESENTATIONS

Copies of representations received can be viewed on the Government's website. This report contains summaries only.

6.1 Representation from the Department of Infrastructure (DOI) Highways Division confirms that the proposal does not raise significant road safety or highway network efficiency issues. As such, they have stated that they raise no objection to the application subject to all access arrangements according with Drawing No. B/8846/1, and for a bound and consolidated surface material to be used for the first 5m of the access/driveway from the edge of the highway (26 July 2023).

6.2 Manx National Heritage notes that the site houses known (highly restricted) range of the Dark-bush Cricket Pholidoptera griseoptera, which are susceptible to local extinction due to habitat change or destruction, and recommend that licenced survey work is undertaken to establish that they are still present at the site. They further recommend that possible mitigation measures are taken should they be found to be extant on the site (14 July 2023).

6.3 The DEFA the Ecosystem Policy Team can confirm that we are content with the details contained in the updated Proposed Site Plan (Drw. B/8846/12) and Proposed Floor Plans and Elevations (Drw. B/8846/2 (A)), and suggest possible conditions that border on Precautionary Working Method Statement for Common Lizard, retention of areas for natural wildlife on site, and suggested wildlife mitigation measures, should approval be granted. They state that they would object to the application without the suggested measures being secured on approval (4 December 2023).

6.3.1 In response to initial comments made by the Ecosystem Policy Team (29 August 2023), the applicants have noted that that they are supportive on conditions being imposed to address mitigation for Dark Bush Crickets, nesting birds, common lizards, including the introduction of multiple nest bricks/boxes in the northeast and northwest walls of the new properties(1 September 2023).

6.4 IOM Railways request that the need for adequate security measures to prevent access to the railway and ensure the safety of residents and others, and the management of surface

or foul water such that there is no interference with the railway are considered in the determination of the application (26 September 2023).

6.5 The DEFA Arboriculture Team has noted that there are no conflicts with the Tree Protection Policy and therefore the Directorate has no objection to this proposal. They recommend that the tree protection plan, and the tree planting outlined on the Proposed Site Plan with Ecology Annotations are made a condition of approval (8 January 2024).

6.6 Garff Commissioners have indicated that they have no objections to the application (10 August 2023).

6.7 DEFA Environmental Health have not made comments on the application although they were consulted for comments on 10 January 2024.

6.8 Manx Utilities (who are provided with a copy of the weekly list to enable comment) have made no comments.

6.9 No comments have been received from neighbouring properties.

7.0 ASSESSMENT

7.1 The principle of development has already been established through the previous grant of an Approval in Principle under PA 22/00669/A for the erection of 2 residential dwellings on the site. As such, the main issues to consider in the assessment of this planning application are:

- a. The Design and visual impact (STP 1, 2, 4 and 5, GP2, HP 4 & EP1);
- b. Impacts on neighbouring Residential amenity (GP2 & RDG 2021);
- c. Impacts on Tress and Ecology (EP4 & 5);
- d. Impacts on Highways and parking (TP4 & 7); and
- e. Drainage Issues (GP2).

7.2 DESIGN & VISUAL IMPACT

7.2.1 In assessing the design and visual impact of the proposed development, it is considered that the overall layout, design and external appearance of both dwellings is in keeping with the context of the surrounding street scene which is varied in its current context; comprising a balanced mix of modern and traditional dwellings, some of which are particular basic in terms of architectural design and detailing.

7.2.2 Likewise, the external materials replicate the dominant materials in the immediate vicinity, whilst the overall building height, proportions, fenestration size and positions, are also largely in keeping with the locality. Additionally, the fact that the new dwellings would appear as single storey dwellings on the front elevations which abut the highway would serve to minimise the visual impact upon the site and surroundings, whilst helping to blend the new dwellings into its surroundings.

7.2.3 It is also important to note that the design and layout which allows for split levels fits with the site character which slopes away from the site frontage and adjoining highway. The scheme also integrates the landscape elements (trees and hedges), which creates a suitable landscape setting for the residential developments, and ensures that the dwellings are in keeping and sympathetic with the character, of the site and surrounding area which is reflective of the edge of settlement location in which the site is located.

7.2.4 As well, it is considered that the flue proposed for the northern dwelling does not have a negative impact on the design of the house itself or the character the immediate street scene, and area.

7.3 RESIDENTIAL AMENITY

7.3.1 With regard to potential impacts on neighbouring amenity, the property most likely to be impacted by the new development would be 'Balla Bluff', which is situated of the southern dwelling and positioned at a distance of about 11m from the southern elevation of this dwelling which has a window serving the kitchen. Whilst the 11m distance between the new window and the dwelling at 'Balla Bluff' holds the potentials for impacts on amenity, the existing mature landscaping on this boundary would be retained with sufficient screening provided by the mature hedging. It is also important that the new kitchen window would be at ground floor level with no elevated view afforded from the new window on the south elevation of the new dwelling. Therefore, it is considered that any impacts on the amenity of this neighbour resulting from the proposed development would be minimal.

7.3.2 In terms of impacts on 'Sun Dawn' to the north, it is considered that any impacts on the amenity of this dwelling would be diminished by the separating distance with the northern dwelling which is more than 30m. It is also considered that there are no windows on the north elevation of the new dwelling to introduce any overlooking concern. Moreover, the mature landscaping on the boundary between the new dwelling and 'Balla Bluff' would be largely retained.

7.3.3 In assessing the impact of the flue proposed for the northern dwelling, the requirements of Environment Policy 22 and its preceding texts are vital for consideration. Paragraph 7.17.1 which exists as part of this policy states that it is important to protect the environment and quality of life by controlling development which lead to unacceptable pollution and other nuisances. It also states that it is not the role of land use planning to duplicate controls which are the statutory responsibility of other agencies including other directorates within the Department. Therefore, as advice has been sought from the DEFA Environmental Protection unit, who have not made any comments which suggests that they raise no concerns with this element of the proposed development, it is considered that there is no reason to recommend refusal. In addition to the above, there is no evidence to suggest that the presence of the flue on the new dwelling which is situated about 39m from the nearest neighbour at 'Sun Dawn' would unacceptably harm to the amenity of this neighbour. Moreover, the sloping nature of the site, the position of the flue at the tallest point on the house, and the single storey nature of proposed dwelling and both adjacent neighbours would ensure that no harmful smoke or smells would impact on the neighbours in this case.

7.3.4 The proposals are therefore compliant with General Policy 2 (g) & (h) of the Strategic Plan, and the principles promoted by the Residential Design Guide, as there would be no unacceptable impacts on neighbouring amenity.

7.4 IMPACTS ON ECOLOGY AND TREES

7.4.1 In terms of impacts on the biodiversity of the site, it is considered that the application is supported by ecological information which the Ecosystem Policy Team is content with. The Team, however, has expressed that they would only support the application if the suggested mitigation measures to protect Dark Bush Crickets, nesting birds, and common lizards, and detailed in their consultation comments on the application are not integral to the development of the site. Therefore, conditions would be attached to ensure that the required mitigation to protect ecological species on site form the core of any development carried out on the application site.

7.4.2 With regard to impacts on trees, it is noted that there are a number of trees on site which are to be removed to enable the proposed development. However, DEFA Forestry has noted that they have no objection to the proposal, as there are no conflicts with the Tree Protection Policy with the current proposal. They recommend that the tree protection plan, and the tree planting outlined on the Proposed Site Plan with Ecology Annotations are made a

condition of approval. As such, it is considered that the development complies with Environment Policy 3 and GP 2 (f) with regard to impact on trees, although conditions would be imposed to ensure that the recommended tree protection measures are integral elements of the proposed development.

7.5 HIGHWAYS AND PARKING

7.5.1 No objections have been raised by Highways Services with respect to the proposals, which would incorporate on-site parking provision of at least two parking spaces for each dwelling, with clear space for vehicles to safely manoeuvre within the site. Likewise, visibility splays evidenced on the submitted site plan with respect to the main road from the new access are considered to be acceptable. Additionally, the proposal provides drainage details which show that no surface run-off water would be discharged onto the adjoining highway.

7.5.2 In addition, Strategic Policy 10 recognises the direct link between the location of new development and the transport network, and requires that new development is sited in a sustainable location to minimise private car journeys, make best use of public transport and encourage pedestrian movement; a condition which the current location would comply with given the proximity of the site to a bus transit corridor along the A2 and other built development within the settlement boundary of Laxey.

7.5.3 Given the above, it is considered that the proposal accords with the provisions of Transport Policies 4 and 7, and General Policy 2 (h) and (i) of the Strategic Plan.

7.6 DRAINAGE ISSUES

7.6.1 The new dwellings would be served by soakaways for surface water drainage and connect to an existing foul sewerage (mains), with a drainage at the edge of the driveway with the access road connected to the surface water system for the site, to prevent surface water run-off onto the highway.

7.6.2 With regard to storm drainage for the site, the applicants have indicated in the Planning Statement that a system on each dwelling will; collect surface water drainage and pass it to the lower ground near the Manx Electric Railway line where it will connect to a soak away. They also note that a percolation test has been carried out to show that the soak away is a workable solution. Therefore, an appropriate condition would be imposed to ensure that the required surface water system is developed for the site, so that surface water does not drain to the adjacent Manx Electric railway line.

7.7 OTHER MATTERS

7.7.1 The design of the scheme would also not impede access to fire vehicles into the site, should they be required. Also, a clear break is created between the proposed dwellings and the neighbouring properties, which would be sufficient to prevent easy spread of fire.

7.7.2 No new confined spaces with easy access to those outside the site would be created, which would serve as easy hideouts for criminal activity or antisocial behaviour.

7.7.3 Given the above, it is considered that these elements of the scheme aligns with the requirements of Community Policies 7, 10, and 11.

7.7.4 Concern has been raised by the IOM Railway regarding the need for adequate security measures to prevent access to the railway and ensure the safety of residents and others from the applications site. Whilst no details have been provided in the submitted documents to specifically address this concern, it is clear from the submitted plans that the trees and mature hedging on the south-eastern boundary of the site would be retained, with large sections of the south-eastern section of the site also retained for wildlife, which would mean

that this part of the site would remain largely undisturbed. As such, it is not considered that the proposed development is such that would open up the south-eastern boundary of the site to the Manx Electric Railway line. A condition would, however, be attached to ensure that protective measures are put in place to prevent access from the site to the electric railway line.

8.0 CONCLUSION

8.1 The proposed development is considered to constitute an acceptable form of development that would contribute to the diversity of the immediate street scene, without detriment to the character of the wider landscape, whilst providing acceptable standards of accommodation for future occupants. There would also be no significant adverse impacts on highway safety, drainage, and neighbouring amenity. The proposals are considered to be compliant with Strategic Policies 4 and 5, General Policies 2, Housing Policy 4, Transport Policies 4 and 7, and Environment Policies 4 and 5 of the Isle of Man Strategic Plan 2016.

9.0 INTERESTED PERSON STATUS

9.1 By virtue of the Town and Country Planning (Development Procedure) Order 2019, the following persons are automatically interested persons:

- (a) the applicant (including an agent acting on their behalf);
- (b) any Government Department that has made written representations that the Department considers material;
- (c) the Highways Division of the Department of Infrastructure;
- (d) Manx National Heritage where it has made written representations that the Department considers material;
- (e) Manx Utilities where it has made written representations that the Department considers material;
- (f) the local authority in whose district the land the subject of the application is situated; and
- (g) a local authority adjoining the authority referred to in paragraph (f) where that adjoining authority has made written representations that the Department considers material.

9.2 The decision maker must determine:

- o whether any other comments from Government Departments (other than the Department of Infrastructure Highway Services Division) are material; and
- o whether there are other persons to those listed above who should be given Interested Person Status

9.3 The Department of Environment Food and Agriculture is responsible for the determination of planning applications. As a result, where officers within the Department make comments in a professional capacity they cannot be given Interested Person Status.

PLANNING AUTHORITY AGENDA FOR 12th February 2024

Item 5.9

Proposal : To improve the existing Sure mobile site at the Colby Football Club, Colby, to move to a new area of the site and include a dedicated 15 m tower to support next generation Mobile phone network equipment

Site Address : Colby AFC Clubhouse
Main Road
Colby
Isle Of Man
IM9 4LR

Applicant : Sure (IOM) Ltd

Application No. : 23/01118/B- [click to view](#)

Senior Planning Officer : Mr Jason Singleton

RECOMMENDATION: To APPROVE the application

Recommended Conditions and Notes for Approval

C : Conditions for approval

N : Notes (if any) attached to the conditions

C 1. The development hereby approved shall be begun before the expiration of four years from the date of this decision notice.

Reason: To comply with Article 26 of the Town and Country Planning (Development Procedure) Order 2019 and to avoid the accumulation of unimplemented planning approvals.

C 2. Unless otherwise approved in writing by the Department, any telecommunications cabinet, mounted equipment or telecommunications structure must be removed from the land on which it is situated, within 6 months of it no longer being required for telecommunications purposes, and such land must be restored to its condition before the development took place, so far as is practicable.

Reason: To ensure that any redundant infrastructure is removed and to comply with Strategic Plan Infrastructure Policy 3.

C 3. The development hereby approved shall not commence until further details of the antennas, dishes and remote radio heads to be installed have been submitted to and approved in writing by the Department. The development shall not be carried out unless in accordance with the approved details and shall be retained as such thereafter unless a variation or alteration is permitted under Schedule 2 of the Town and Country Planning (Telecommunications) Development Order 2019 (or any alteration/replacement of that order).

Reason: To ensure appropriate use of the mast for telecommunication equipment.

C 4. Notwithstanding the provisions of the Town and Country Planning (Permitted Development) Order 2012 (or any amendment or replacement of that order) no fencing, walling or gates shall be erected at the site other than as shown on the approved plans shall be erected.

Reason: to ensure the development is carried out in accordance with the approved plans in the interests of the visual amenity of the area.

C 5. The proposed 1.25m high post and rail fence shall be painted dark green and maintained and retained in perpetuity.

Reason; To be inkeeping with a rural area.

C 6. No development shall be commenced on site until a planting scheme has been first submitted to and approved in writing by the Department showing details of existing and proposed type of native trees and bushes to bolster the existing levels of planting to those areas of open parts of the site, and a programme of implementation. All planting shall be carried out in accordance with the approved details.

Reason: In the interests of the wooded appearance of the development and the surrounding area.

C 7. The proposed telecoms mast and affixed communication equipment here by approved shall be no higher than the stated 15m when measured from the concrete base as shown on plan referenced; IoM_13/013 Rev.C

REASON To respect the existing heights of the flood lights.

C 8. The proposed antennas, dishes and RRU shall be coloured to match the monopole tower mast to which they are affixed.

REASON: To mitigate any visual impact.

Reason for approval:

The proposed application is not considered to harm the use and enjoyment of neighbouring properties and would comply with aforementioned planning policies of the Isle of Man Strategic Plan 2016, specifically those sections of Environmental Policy 22; General Policy 2 (b,c,g); and Infrastructure Policy 3 is recommended for approval.

Interested Person Status – Additional Persons

It is recommended the following Governemnt Departments should be given Interested Person Status as they are considered to have sufficient interest in the subject matter of the application to take part in any subsequent proceedings and are not mentioned in Article 4(2):

- o DoI Railways

Planning Officer's Report

THIS APPLICATION IS REFERRED TO THE COMMITTEE AT THE REQUEST OF THE HEAD OF DEVELOPMENT MANAGEMENT

THE SITE

1.1 The application site is a small parcel of land identified in red that sits within the wider curtilage of Colby football club and sports pitches. The site sits to the south of the railway line and to the south east of Station Park residential estate. To the wider north of the site is the residential catchment area of Colby and to the east is Ballabeg.

1.2 The site is currently a piece of unused scrub land that is grassed over adjacent to the hardstanding area used for car parking which serves the sports club and pitches. To the north of the site is a boundary hedge with some mature planting along its length but generally un-kept.

1.3 At present the current communication equipment is mounted onto two of the six 15m high flood lighting columns that surround one of the all-weather sports pitches. The columns and street lighting are all bare galvanised metals.

THE PROPOSAL

2.1 Planning permission is being sought for the erection of a new 15 meter high telecommunications tower, to which would be mounted: 3x panel antennas; 2x dishes; 6xRRU with associated ground equipment cabinets and two equipment cabinets (0.7x0.7x1.8m) on a concrete base. None of the equipment would be higher than the top of the 15m pole.

2.2 The proposed works would be enclosed within a new fenced off area with 1.25m high wooden post and rail fencing with wire mesh creating a compound area that would measure a footprint of 4.0m x 4.6m, essentially a concrete pad foundation.

2.3 The agent notes; "This application is to improve the existing Sure mobile site at the Colby Football Club, Colby, to move to a new area of the site and include a dedicated 15 m tower to support next generation Mobile phone network equipment." The existing communications equipment would be removed from the two existing monopoles but the poles would remain in place to support the existing flood lighting of the sports pitches below.

2.4 At present the specification of the 'antennas' and 'RRU's' specification are not known but the agents confirm; "Equipment Cabinets & Antenna sizes/locations and quantities are indicative as the final vendor decision has not yet been made, sizing will be confirmed with planning ahead of installation"

2.5 The application has been submitted by one of the Island's licensed operators (Sure Mobile) and is accompanied by a certificate of compliance with the World Health Organisation's ICNIRP guidelines for public exposure. (ICNIRP - "International Commission on Non-Ionising Radiation")

2.6 The applicant notes; "The proposed new mast will support up to 3 x GSM/3G/LTE antenna plus next generation antenna equipment, up to 3 Line of site dishes and mast mounted Remote radio units (needed to support high orders of MIMO*)...The current structures are incapable of supporting newer equipment required to support the next generation of 4G network technologies. They are also incapable of support some current technologies, 2G, which will be prominent in future networks to support legacy voice services. 2G is not currently available at Colby due to the large size of the antenna required to support it".

PLANNING HISTORY

3.1 12/01214/B - Erection of two mobile phone communications antenna and 300mm diameter microwave dish to existing floodlighting masts and creation of an enclosure to house associated electrical equipment. Approved.

3.2 11/01781/B - Lighting Scheme for the access road to new clubhouse and sports pitches. Approved & Approved at Appeal.

3.3 09/00340/B - Creation of a football ground with associated facilities to include club house, parking, tractor shed, drainage system, landscaping, lighting and fencing, including

new vehicular access with entrance from Main Road and controlled railway barrier crossing. Approved & Approved at Appeal.

PLANNING POLICY

4.1 The application site is identified on the Area Plan for the South (Map 6 Colby & Ballabeg) as 'Open Space' with the specific use identified as a "Playing fields".

4.2 The site is not within a Conservation Area nor is it identified as being in an area at risk of flooding from surface water, river or tidal.

4.3 The following policies from the 2016 Strategic Plan are considered pertinent in the assessment of this application;

Strategic Policy

1 Development should make the best use of resources (c)

Spatial Policy

5 New development will be located within defined settlement.

General Policy

2 General Development Considerations (b,c,g)

3 Exceptions to development in the countryside (e)

Environment Policy

1 Protection of the countryside

22 (iii) Safeguarding the environment and/or the amenities of surrounding properties

Infrastructure Policy

3 Need for communications infrastructure versus environmental impacts

Transport Policy

3 not compromise the attraction of former or current rail routes

The text preceding Infrastructure Policy 3 is an important consideration where it states in paragraph 11.9.2; "The maintenance and improvement of these systems is likely to require the provision of new infrastructure; infrastructure required by private telecommunications operators is likely to be more extensive. It is important that a balance be struck between the need for new, evolving communications systems to satisfy residential and business demand and the impact that the necessary infrastructure will have upon the environment. New communications development should be in accordance with the provisions of this plan".

4.4 The Isle of Man government has an overarching series of strategies and policies that are considered materially relevant to the assessment of this application. This includes the Isle of Man Government Climate Change Plan 2022-2027; which promotes a more sustainable approach to living and working, one of which is remote working.

REPRESENTATIONS (this report only contain summaries - full reps can be read online)

5.1 Arbory and Rushen Parish Commissioners do not object (17.11.23)

5.2 Highways Services do not object (03.11.23)

5.3 DOI (Public Transport) (14.12.23) queries the height and if the mast fell, would it land on the railway lines.

ASSESSMENT

6.1 The main issues to consider in the assessment of this planning application are as follows:

- Principle of development (SP1,SP4, SP5, IP3)
- Location of the proposal (GP3),
- Design and visual impact (GP2 b, c, EP1)
- Impact upon residential amenity (GP2 g and EP22)
- Impact upon the heritage railway (TP3)
- Other matters

PRINCIPLE

6.1 The application is submitted by Sure Mobile, essentially due to the lack of available 3G/4G coverage in the wider residential area of Colby and Ballabeg, with customers presently having difficulty in accessing the mobile network. The proposed installation will have the capabilities to address both indoor and outdoor coverage demands within the surrounding area, whilst significantly increasing the level of coverage within the Colby area as demonstrated as part of the submission. The proposals also reflects the investment and modernisation of communications equipment on site.

6.2 In favour of the proposals is Infrastructure Policy 3 and its supporting text which advises that the maintenance and improvement of the Island's telecommunications systems will necessitate a balance to be struck between the need for new and evolving communications systems, particularly to satisfy the needs of residential and business demand, and the impact of such required development upon the environment.

6.3 The principle of development also further receives support from the Climate Change Plan 2022-2027 through improved network infrastructure that would allow for increased levels of home/remote working within the wider residential area. The residential catchment here is an important consideration, particularly given the Government's strategy for remote workings and the agent notes; "Good connectivity is vital to support this strategy and ensuring that areas of the island, such as a Colby, have high-capacity reliable mobile services to access the latest in technology is therefore key".

6.4 The "need" for the proposal can be substantiated in this instance given the existing telecoms infrastructure located in the immediate vicinity and this proposal seeks to enhance this through the investment with new technology and consolidate the equipment to one new mast that would work towards IP3.

LOCATION

6.5 The site sits immediately just outside of the defined residential settlement boundary of Colby, so technically would be contrary to SP4 as Colby and Ballabeg are identified as "village developments". For reference the railway line to the north of the site is the boundary of the settlement area for Colby. However the proposals are to serve those identified villages and adjoining rural area and there is allowance in Sp5 for development out outside of those identified settlements that are within the countryside that cross references GP3.

6.6 It must further be noted that this area where the site (identified in red) is located, is identified for development, specifically relating to sport fields and club houses in the APS. In terms of development outside of defined settlements General Policy 3 allows for such exceptions through part 'e', mainly for location dependant development in connection with the provision of necessary services. The proposal could find compliance in this instance through GP3e.

6.7 In terms of relocating the mast and centralising all the communication systems to one pole the Agent notes; "The proposed new mast will have significant advantages over the current mast. The Proposed antenna will be mounted higher on the structure this will be a significant improvement and will lead to better user experience in this area. The proposed

mast has the structural strength to support twice the number of antennae, over the existing mast, allowing more antenna to be added, therefor increasing the capacity of the site (combined with the addition of more electronics in the existing equipment cabin). The proposed mast will also have the capacity to support next generation network development.

6.8 The applicant has provided information on other sites which were considered in order to deliver the necessary infrastructure to increase network coverage, however it has been demonstrated that the selected site would provide the greatest coverage to the intended area of population with minimal topographic effect on signal propagation. Moreover, the existing mono-poles to which the flood lights are affixed, whilst being considered, was noted as not being able to cater for the quantity of equipment to support multiple communications equipment.

6.9 The agent notes; "The proposed Development is an upgrade of our existing Site, as the existing one can no longer support the demands of the local community in Colby. The physical structure of the existing flood light towers is not capable of supporting next generation antenna". Given this there relocation away from the exiting poles is warranted and would sit in an area of land currently not utilised as such this aspect would conform to Sp1, Sp5, GP3 and IP3. Arguably the man focus here for the determination is the potential for visual impact upon the character of the area being a 15m high mast on the landscape.

DESIGN AND VISUAL IMPACT

6.10 General policy 2 ensures any visual impact is considered and equally Environmental Policy 1 ensure there is no adverse visual harm to the wider countryside, especially given a mast at 15m could be visible from afar. The proposed design and specific siting of the proposed mast and its associated equipment will be visible on the landscape but needs careful consideration to ascertain whether this would be more detrimental than the current situation or would result in a visual improvement.

6.11 The opening sentence of Infrastructure Policy 3 is helpful when balancing the need and any visual impact, where it notes: "A balance must be struck between the need for new, evolving communications systems to satisfy residential and business demand and the impact that the necessary infrastructure will have upon the environment." IP3 also encourages mast sharing, as there is no other network mast in this vicinity, it would not be possible, and a balance needs to be struck to ensure there is no visually intrusive masts in sensitive landscapes.

6.12 However it must be noted that when travelling along the main road from Ballabeg to the roundabout at Ballafesson Road (and vice -versa), when looking south, there is an overhead high voltage power cables and supporting telegraph poles on the landscape and is also identified on the Constraints Map 1 of the APS.

6.13 The proposed mast, of galvanised steel, would be one tapered frame work with an affixed access ladder with the communications equipment attached, would be no higher than the top of the pole (15m) and can be conditioned. The proposal would be visible, and not forgetting most of the mast would be affixed with various equipment (multiple mobile panel antennas/dishes/radio kit) towards the upper proportions, which would certainly be seen from nearby and also further afield. However this would be no higher (15m) or any more prominent than the existing poles to which equipment is currently mounted. The untreated colour of galvanised steel / grey would match with the existing masts for the floodlighting and street lighting and would be appropriate given the height that could be read against the skyline. It is important that any communications equipment is colour coded to match the mast to mitigate any visual impact and they are a unified colour. This can be secured through an appropriate worded condition.

6.14 With that said, the telecoms tower being the most visible element of the proposal would clearly have some degree of visual impact over and above the existing telecom configuration affixed to floodlighting masts given the new location and dedicated mast. However, the magnitude of the development's intrusion upon the wider landscape setting here could be visible but the existing six 15m flood lighting columns (approved under 09/00340/B) were visible from a variety of areas to the north of the site at the time of the site visit. Namely, the junction with the Main road and Cronk Cullen, the same for the junction with Ard Woolley, the junction with Ballacriy Park and the junction with Glen Road, essentially here the boundary treatment with the highway is a low (approx. 1m high sod hedge in parts) with views above facing south. Undoubtedly there would also be views from some of the dwellings in the area facing south.

6.15 From the upper elevation of Ballacriy park there will be views facing south, across and down towards the existing flood lights and the proposed location of the 15m mast. When standing opposite dwelling no.74 and 101 on the highway, you can see when looking south the existing flood lighting columns, so the 15m mast would equally be visible (approx. 670m away) but would not be read in isolation but amongst the existing 6 flood lighting columns. As such in terms of visual intrusion from afar it would not be seen as an incongruous feature on the wider landscape.

6.16 Views of the mast would be partially visible with the junction to the application site from the main road and those properties fronting onto the main road in the immediate vicinity and also visible from the platform of the Colby train stop. Here a degree of additional planting / landscaping could assist in this instance for the lower proportions. However, the upper proportions would be visible and equally the same could be said from fleeting views from within the residential estate of Station Park (immediately to the north west). Additional planting to the north of the proposed site between the Mast and the railway line would be of benefit to mitigate the views when passing on the train and would also help ensure there is a degree of bio-diversity net gain from the proposals, especially if planted with Manx hedging and indigenous trees.

6.17 With regard to the associated cabinets their visual impact would be negligible and would not be seen as in conflict with policy leading to an adverse visual impact, over and above given the levels of existing development (fields, club house) on the wider site.

6.18 On balance, the benefits of providing the required equipment to increase network coverage are considered to outweigh the limited visual harm resulting from the development, particularly in the context of the Government's ambition to improve public infrastructure and promote remote/home working as part of the Government's plan to achieve net zero status for the Island by 2050. Equally it is also noted the local authority / commissioners here supported the application.

6.19 On this basis, it is considered that the proposal would not create any additional visual harm or intrusion into the site and surrounding area and would conform to those parts of Strategic Policy 1, General Policy 2(b,c) Environmental Policy 1 and Infrastructure Policy 3.

RESIDENTIAL AMENITY

6.20 The site is located approx. 60m to the north west, (namely; 36-39 Station Park, Colby) from the closest residential properties and at a slightly different level with the application site being lower which ensures that their residential amenities would not be materially affected through any loss of light, overbearing impact or loss of privacy and as a result of the proposals. Whilst noted above there will be views of the proposals from dwelling houses, this would be a view and the loss of a view or interruption of a view is not a material planning

consideration, despite their being no objection to the proposals. The development is therefore compliant with General Policy 2(g) and Environmental Policy 22.

6.21 The land to the north is designated for Strategic Reserve for residential development with further guidance in the APS written statement on when it should be released and general guidance for development on site. In terms of the proposal, it would not be seen to be detrimental to the use of the land for future residential development.

RAILWAY ROUTE

6.22 The proposals are located adjacent to the heritage Steam Train and tracks, approx. 10.6m to the north of the site. DOI raised a concern should the mast fall whether it would impact upon their rail route. The applicants have noted this and advised on 19/01/24 (which was circulated to DOI for comment);

6.23 "The proposed Monopole is 15 m high with the proposed position 10.6 m from the boundary with the Railway line. So there is a possibility that should the Mast fail, we have not had a single failure of this type of mast 18 years, then it could possibly encroach on the path of a train. There are currently a large number of potential structures and trees that should they fall, have a potential to encroach on the railway, we do not feel that our proposed Mast would significantly increase this risk. In addition, Proposed the Monopole wind survival is over 120 Km and if we have experienced winds in that range, I would expect our mast to be one of a large number of obstacles fallen on the railway". The applications also provided trade literature on the tower that notes their installation adjacent to railway lines.

6.24 The information and correspondence was circulated to the DoI and at the time of writing no further comments were received. On balance, this would not be perceived a detrimental issue arising on site and would not be seen to conflict with Transport Policy 3.

OTHER MATTERS

6.25 In terms of health issues associated with a telecommunication mast and the proximity to residential dwellings, the Isle of Man has no specific guidelines in how to deal with such concerns. However, guidance in the United Kingdom (since replaced with less specific guidance) expressly advised that where a proposed telecommunications installation conforms to the recommendation of The Independent Expert Group on Mobile Phones ("The Stewart Report") and the guidelines for the public exposure set by The International Commission On Non-Ionising Radiation Protection (ICNIRP), then the Local Planning Authority should have no concerns with regard to health and safety issues.

6.26 The application is accompanied by a certificate of compliance with the World Health Organisation ICNIRP guidelines for public exposure, and the 'Health and Safety at Work Inspectorate' is responsible for the monitoring of telecommunications installations to ensure compliance with the ICNIRP Guidelines. No concerns relating to the safety of the general public are therefore raised.

6.27 The proposed equipment to be affixed to the mast are shown on the plans with indicative sizes. As such, whilst the principle of the telecom functioning equipment affixed to the mast has been shown and the quantity of units, those specific details can be conditioned to ensure specifics and dimensions are submitted prior to commencement on site to ensure the mast is appropriately utilised for telecommunication equipment as shown on the plans.

7.0 CONCLUSION

7.1 For the above reasons, it is concluded that the planning application would not harm the use and enjoyment of neighbouring properties or the highway network and would comply

with aforementioned planning policies of the Isle of Man Strategic Plan 2016, and is recommended for approval.

8.0 INTERESTED PERSON STATUS

8.1 By virtue of the Town and Country Planning (Development Procedure) Order 2019, the following persons are automatically interested persons:

- (a) the applicant (including an agent acting on their behalf);
- (b) any Government Department that has made written representations that the Department considers material;
- (c) the Highways Division of the Department of Infrastructure;
- (d) Manx National Heritage where it has made written representations that the Department considers material;
- (e) Manx Utilities where it has made written representations that the Department considers material;
- (f) the local authority in whose district the land the subject of the application is situated; and
- (g) a local authority adjoining the authority referred to in paragraph (f) where that adjoining authority has made written representations that the Department considers material.

8.2 The decision maker must determine:

- o whether any other comments from Government Departments (other than the Department of Infrastructure Highway Services Division) are material; and
- o whether there are other persons to those listed above who should be given Interested Person Status

PLANNING AUTHORITY AGENDA FOR 12th February 2024

Item 5.10

Proposal : Additional use of the premises for pharmaceutical retail (Class 1.1) and associated health services (Class 4.1)

Site Address : BMS House
Port Way
Balthane Industrial Estate
Ballasalla
Isle Of Man
IM9 2AJ

Applicant : Mr Charles Simpson

Application No. : 23/01468/C- [click to view](#)

Senior Planning Officer : Mr Jason Singleton

RECOMMENDATION: To APPROVE the application

Recommended Conditions and Notes for Approval

C : Conditions for approval

N : Notes (if any) attached to the conditions

C 1. The development hereby approved shall be begun before the expiration of four years from the date of this decision notice.

Reason: To comply with Article 26 of the Town and Country Planning (Development Procedure) Order 2019 and to avoid the accumulation of unimplemented planning approvals.

C 2. The proposed change of use hereby approved shall be limited to the selling of pharmaceutical and medicinal products only.

REASON: To restrict the sale of goods within an industrial estate

C 3. The use of the premises hereby approved shall be carried out in accordance with the internal layout drawing referenced "BMS House floor plan" and retained in perpetuity, unless otherwise approved in writing by the Department.

REASON : To avoid any increase in medical retail on the site.

Reason for approval:

This application would be in accordance with Business Policy 1 and 5 nor is it considered to adversely impact on the general amenity of the area and is in compliance with General Policy 2.

Interested Person Status – Additional Persons

It is recommended that the owners/occupiers of the following properties should not be given Interested Person Status as they are not considered to have sufficient interest in the subject matter of the application to take part in any subsequent proceedings and are not mentioned in Article 6(4):

- o 37 Ballahane Close, Port Erin
- o 45 Knock Rushen, Castletown
- o Bay View, Santon
- o Sherwater, Port St Mary
- o 4 Castlemere, Douglas
- o 26 Close Famman, Port Erin
- o 73 Silverburn Crescent, Ballasalla
- o 1 Oatfield Rise, Ballasalla
- o 2 Fuchsia Close, Ballasalla
- o 15 New Road Laxey
- o Ivy Bank, Foxdale
- o 25 Empress Apartments, Douglas
- o 10 Ballabridson Park, Ballasalla
- o 14 Croit Ny Glionney, Colby

as they do not clearly identify the land which is owned or occupied which is considered to be impacted on by the proposed development in accordance with paragraph 2A of the Policy; are not within 20m of the application site and the development is not automatically required to be the subject of an EIA by Appendix 5 of the Strategic Plan, in accordance with paragraph 2B of the Policy; as they do not refer to the relevant issues in accordance with paragraph 2C of the Policy and as they have not explained how the development would impact the lawful use of land owned or occupied by them and in relation to the relevant issues identified in paragraph 2C of the Policy, as is required by paragraph 2D of the Policy.

It is recommended the following Government Departments should be given Interested Person Status as they are considered to have sufficient interest in the subject matter of the application to take part in any subsequent proceedings and are not mentioned in Article 6(4):

- o Iom Police
- o DHSC

Planning Officer's Report

THIS APPLICATION IS REFERRED TO THE PLANNING COMMITTEE AS THE PROPOSED USE IS CONTRARY TO THE DEVELOPMENT PLAN BUT RECOMMENDED FOR APPROVAL.

1.0 THE SITE

1.1 The application site is curtilage of BMS house, Port Way, Balthane Industrial Estate. The units sits to the central part of the industrial estate and is relatively new in its design and built form with office accommodation at the first floor and ground floor area and approx. 15 car parking to the front of the building. The front elevation is characterised with Upvc windows to the ground and first floor and finished with painted masonry to the ground floor and vertical grey cladding panels to the first floor with blue accents around the window frames.

1.2 The property sits gable facing onto the inner roadway and having a more office appearance than industrial. To the east (side) of the building a roadway giving access to the rear proportions and access into the rear of the building with a garage type loading bay / doorway. The building is part two storey at the front and single storey to the rear.

2.0 THE PROPOSAL

2.1 Proposed is the additional use of the premises for pharmaceutical retail (Class 1.1) and associated health services (Class 4.1). There are no physical alterations to the external fabric of the property.

2.2 The applicant notes; "This will allow the site to be used for a pharmacy dispensing site and pick up place for medicines for ManxCare prescriptions and Private Prescriptions. A healthcare service for practicing professionals to deliver care to patients....Kingsley Muti is an island based pharmaceutical company. It has invested in the unit at Balthane and had recently been inspected and approved for a wholesale licence by the Department of Health and Social Care (DHSC). We have been added onto the Isle of Man Pharmaceutical List by ManxCare citing our need and desirability, however the DHSC need to complete a site inspection for granting our Licence Number".

2.3 The proposal does not involve any material alterations to the external fabric of the building.

3.0 PLANNING POLICY

3.1 The application site is designated as; Industrial/Business Park on the Area Plan for the South Map 4, Ballasalla. There is a development brief contained with the Area Plan for the South Written Statement which states the following:

3.2. Paragraph 6.8.2:

"The Balthane Industrial Estate is located just south of Ballasalla village. The Estate is used by a mix of businesses but incremental development, poor maintenance of buildings, roads and footways, has over the years, resulted in the Estate appearing neglected and unattractive in many parts giving a poor impression to the public, customers and businesses alike. It is recognised that the Estate is home to some uses which are essential to support the Island and also that there is scope for the general appearance and access to the Estate to be improved. There is considerable land available at Balthane which was first identified on the 1982 Development Order. It has been deemed appropriate to carry forward this designation into the Area Plan but there is a need to secure improvement works on the estate."

3.3 Employment Recommendation 1:

"It is recommended that the Department of Infrastructure, the Department of Economic Development and Malew Parish Commissioners work collaboratively to produce a strategy for improvements at Balthane Industrial Estate. This will include general environmental improvements, and also improvements in respect of access, lighting and infrastructure in an effort to ensure that the Estate is an attractive place for both users and customers."

3.4 There are no policies which comment specifically on the use of industrial areas or sites for non-industrial purposes. This is dealt with in the Strategic Plan.

3.5 The site is not within a Conservation Area, there are no registered trees on site nor is it within an area of flood risk. It is appropriate to consider the following planning policies from the Isle of Man Strategic Plan 2016;

Business Policy

1 - Creation of employment opportunities

5 - Limitations on retail and only storage and distribution on industrial sites

General Policy

2 - (b,c,g) - General development considerations

Transport Policy

4 - Highway Safety

7 - Parking Provisions

4.0 PLANNING HISTORY

4.1 07/01208/B - Construction of a workshop/factory building with associated office and ancillary accommodation including car parking. APPROVED.

4.2 Other applications within Balthane of relevance are as follows, all approved:

23/01342/C - Change of use from as storage unit to a personal training studio

22/00231/C - Additional use of site for the storage of classic cars and for car hire

21/01285/C - Change of use of existing warehouse into a leisure facility

20/00671/B - Conversion ground floor storage and first floor fitness studio

20/00304/C - conversion from general industrial to leisure

18/00799/B - conversion of unit to dog day care facility

18/00127/B - conversion of unit to dog grooming facility

16/01177/B - conversion of unit to motorcycle repairs and sales

15/00665/C - use of premises as plumber's merchants and bathroom sales

15/00156/C - use of office as hair salon

14/01382/B - use of premises as dog grooming facility

12/01610/C - conversion of unit to cafe

11/00870/C - use of premises for the repair and sale of motorcycles

10/01179/C - use of unit as a fitness centre.

5.0 REPRESENTATIONS (in brief - full reps can be read online)

Statutory Consultations

5.1 Malew Parish Commissioners - do not object (10/01/24)

5.2 Highways Services - do not object (22/12/23)

5.3 Police (Architectural Liaison Officer) - do not object (22/01/24)

5.4 DHSC (registrations and inspections) - had not commented at the time of writing.

Public Representations

5.5 The following representations have been received as noted below whom amongst them raise the following thematic issues;

In Objection;

- o Competition for existing pharmacies and small businesses
- o Location should be in a town community
- o Increase in traffic congestion and parking
- o Access through an industrial estate for pedestrians not favourable
- o Threat to job security
- o Not suitable for an industrial estate
- o Increase of traffic flows

In Support;

- o Support the growth of medical companies on island
- o Positive economic impact
- o Relieve pressure on GP's
- o Positive for drug security on island

Those above issues raised have been received from 14 addresses, namely;

.37 Ballahane Close, Port Erin

.45 Knock Rushen, Castletown

.Bay View, Santon

.Sherwater, Port St Mary

.4 Castlemere, Douglas

.26 Close Famman, Port Erin

.73 Silverburn Crescent, Ballasalla

.1 Oatfield Rise, Ballasalla

- .2 Fuchsia Close, Ballasalla
- .15 New Road Laxey
- .Ivy Bank, Foxdale
- .25 Empress Apartments, Douglas
- .10 Ballabridson Park, Ballasalla
- .14 Croit Ny Glionney, Colby

6.0 ASSESSMENT

6.1 The fundamental issues to consider in the assessment of this planning application are;

- (i) Principle (Gp2 Bp1,5)
- (ii) Retail use (Bp5)
- (iii) Visual Impact on the character of the area (Gp2b,c,g)
- (iv) Highway Safety (GP2 h&i)

(i) Principle

6.2 Whilst the site is not designated for these specific purposes, the proposed use does not easily fit into existing allocations within an industrial site designation. On the Island, a change in trends has occurred and a variety of industrial estates now see more public uses of the premises where there is no statutory nuisance from the activity indoors arising from noise, vibration, smell, fumes, smoke or heavy machinery operations. This has been further demonstrated and noted in para. 4.2 of this report, which outlines many examples of alternative business uses on land / buildings located in industrial areas particularly those noted on this same industrial estate within Ballasalla.

6.3 In terms of the proposed use, the site is zoned as industrial which covers a multitude of uses, whilst there is a degree of permitted development for uses on industrial sites for those specific use classes (2.1-office; 2.2 light industry and research and development; 2.3 General Industrial and 2.4 Storage and distribution) a small degree of retail can be anticipated but is very much dependant on the level and scale of the operational activity.

6.4 It is understood the proposed use of the internals of the building would be limited to the storage of bulk pharmaceutical medicine and the sorting aspect would be carried out through automated equipment, packed up and then processed for collection by courier for delivery or customer collection. There is no manufacturing of pharmaceutical products being proposed at the site. The retail aspect that is being sought will align with Manx Care's licensing legislation to allow the premises to become a 'retail pharmacy', but not necessarily a retail shop, nor has the application be assessed as such. The applicant notes; "as this application has come at the request of DHSC, insisting we have retail planning permission. It was our belief this was not required, as we had no plans to act as a retail site selling toiletries, nappies etc. As Kingsley Muti is now in this process, it is right that no restrictions are applied." As such because there is no retail as a conventional shop, Strategic Policy 9 and Business Policy 10 which both seek retail only to towns and villages are not applicable in this instance. It is noted that an application on Balthane Ind. Estate ref; 22/00403/C -To part use industrial unit as a retail outlet (Retrospective) - was refused as this was seeking to sell clothes and antiques and was deemed contrary to Business Policy 5, Strategic Policy 9 and Business Policy 10 of the Isle of Man Strategic Plan 2016.

6.5 The applicant notes they have been; "approved inclusion into the Pharmaceutical List by ManxCare, our contractual duties will include dispensing of ManxCare prescriptions direct to patient. As well as the ability to offer private prescription services to other patients. Our professional clinicians will always be on site to offer clinical interventions and advice to patients in our Consultation and Treatment Rooms...We will buy medicines then supply to the Pharmacies, and hospitals".

6.6 The proposed use here would be contained within the building and the use (storage and distribution) would not be out of keeping within the Industrial estate where there are a variety of business uses and would be of a small enough scale to not be detrimental to the overall land use designation or to those surrounding business uses. The additional services that are offered would be small scale in terms of the overall commercial scale of the business. The introduction of a new business here and use of an empty premises would be supported through BP1 and would be seen to generate employment possibilities.

(ii) Retail use

6.7 The use as a retail pharmacy with associated health services, essentially at the front end of the building, would be of a small scale in relation to the overall floor plan and business use, essentially being ancillary. The remainder of the internal area would retain the existing offices on the first floor (only part of the building has a first floor) and the remainder of the ground floor for storage and sorting to allow for further distribution. BP5 allows for exception for elements of retail on industrial sites where they are directly linked to the main use of the business and could not easily be severed. The retail aspect that is being sought will align with Manx Care's licensing scheme to allow the premises to become a 'retail pharmacy', but not necessarily a retail shop.

6.8 It is understood this property has been inspected by another government department (DHSC / Manx Care) and a commercial pharmacy license for the premises has been issued for the rear proportion of the building. In planning terms could be seen as storage and distribution for which PDO applies. The additional use for the "retail pharmacy" from a planning perspective, (which would correlate with DHSC/ Manx Care requirements for licensing) or the customer facing / interaction counter and dispensing (Class 1.1 - 'shop' in the Use class order) would allow for the additional use of the premises to operate as a retail use. The use part as a "shop" or retail in this case could be limited by a planning condition to pharmaceutical / medicinal products and no display of good to purchase. The associated medical treatments or procedures, consulting etc. that could be available at the premises would likely fall into Use Class 4.1 for 'Clinics or health services' and would be within the ground floor areas. Essentially if a member of the public seeks to collect their prescription from the premises rather than it being delivered, this would technically be seen as "retail".

6.9 In terms of whether this would compete with town centre pharmacies and referencing BP 5, this proposal is more of a commercial entity where medicines are purchased in bulk and goes through a degree of robotic sorting, packaging and dispensing as per the prescription/ order and sent out for collection or delivery. The vast majority of retail town centre pharmacies have a degree of other goods that are sold from their premises that would sit outside of medicinal products. As such this proposal is not seen to undermine the vitality and viability of town centre retail areas and the retail aspect here is almost an ancillary use to the premises and not its sole function as a "shop" as noted above.

6.10 Correspondence (para5.3) from the police architect liaison officer had commented in detail and is mainly concerned with physical security at the premises with reference to windows, doors and roller shutters with internal and external CCTV; "It goes without saying that this building will carry risk so procedures and the internal policies with regards to security need to be water tight". As such it is noted the police do not object to the proposal.

6.11 DHSC with responsibility for licensing and inspecting premises/ business were consulted on the application and chased for comment on 19/02/24 & 02/02/24. At the time of writing, no comments have been forthcoming. As such if they have concerns regarding the proposals they can act under their own licensing legislation for which the business requires to operate.

6.12 In response to the comments received from the consultation period, essentially regarding the retail aspect, the applicants notes in their reply to these dated 02/02/24; "Agreements and pricing structure has been set out with the Isle of Man Post Office to offer home deliveries of some medications. We feel this is great for a vital Island business, giving them (IOMPO) an additional form of income. We feel this also serves the most vulnerable in our community... Kingsley Muti is largely focused on the bulk storage and distribution of medicines, both locally and abroad. Hence the reason for our WDA Licence. The consultation rooms allows for patient privacy if intervention or discussion is needed. This is good practice in any pharmacy and should be welcomed...In conclusion, it is important to state the commissioning body behind license approval, Manx Care, supported our application and added us to the "Pharmaceutical List". Manx Care have deemed us desirable and necessary for medicine reliance and reliability. This is due to the unpredictable and unreliable pharmacy network currently on the island".

6.13 In terms of the representations received, there has been a number letters of support and letters of concern/ objection. In terms of this, it has been noted above the nature of operation of the proposals and the different markets they would operate in and the nature of the business would not be seen to contribute to a decline of pharmaceutical retail business in a town centre. As such this aspect with the additional of conditions to ensure only medical and pharmaceutical products are retailed would comply with Business Policy 5.

(iii) Visual Impact

6.14 Whilst not in full accordance with the Development Plan and noting there are no physical alterations to the property, when assessed against the broader principles of General Policy 2 a change of use would not impact on the wider character and appearance of the area, nor would it conflict with adjacent uses of the Balthane Industrial Estate. It is further noted existing appearance of the building, essentially the front elevation appears as offices and not as industrial.

(iv) Highway Safety

6.15 This site is close to a bus network and within walking distance of a concentration of population. The estate generates a variety of different users to the business in the estate and this traffic is generally day time and week day traffic and as such there is likely to be capacity on the roadways and adjacent parking areas to accommodate any vehicles which cannot be accommodated on the site such that there will not be an adverse impact on the highway network in the vicinity of the site.

6.16 Highway Services have considered the merits of the proposal, access to and from the site from the highway, as well as parking and highway safety. As the transport professionals their comments are heavily relied upon and as they do not object, the proposal would be aligned with the principles of GP2 (h&i) and Transport Policy 4 and 7.

RECOMMENDATION

7.1 Whilst the land is not designated for the proposed use, the change of use is not considered to be unacceptable with limiting condition for retail and would be in accordance with Business Policy 1 and 5 nor is it considered to adversely impact on the general amenity of the area and is in compliance with General Policy 2.

8.0 INTERESTED PERSON STATUS

8.1 By virtue of the Town and Country Planning (Development Procedure) Order 2019, the following persons are automatically interested persons:

- (a) the applicant (including an agent acting on their behalf);
- (b) any Government Department that has made written representations that the Department considers material;

- (c) the Highways Division of the Department of Infrastructure;
- (d) Manx National Heritage where it has made written representations that the Department considers material;
- (e) Manx Utilities where it has made written representations that the Department considers material;
- (f) the local authority in whose district the land the subject of the application is situated; and
- (g) a local authority adjoining the authority referred to in paragraph (f) where that adjoining authority has made written representations that the Department considers material.

8.2 The decision maker must determine:

- o whether any other comments from Government Departments (other than the Department of Infrastructure Highway Services Division) are material; and
- o whether there are other persons to those listed above who should be given Interested Person Status

Item 5.11

Proposal : Additional use for tourism
Site Address : 32 Summerhill Road
Onchan
Isle Of Man
IM3 1NB
Applicant : Mr Michael Laugier
Application No. : 23/01437/C- click to view
Planning Officer : Mr Peiran Shen

RECOMMENDATION: To APPROVE the application

Recommended Conditions and Notes for Approval

C : Conditions for approval

N : Notes (if any) attached to the conditions

C 1. The development hereby approved shall be begun before the expiration of four years from the date of this decision notice.

Reason: To comply with Article 26 of the Town and Country Planning (Development Procedure) Order 2019 and to avoid the accumulation of unimplemented planning approvals.

C 2. The approval is hereby given for the dwellinghouse (Class 3.3 of the Town and Country Planning (Use Classes) Order 2019) to also be used as a self-contained self-catering tourist unit (class 3.6 of the same order).

Reason: for the avoidance of doubt.

Reason for approval:

It is considered that the proposal would not give rise to an unacceptable impact on amenity or impact on highway safety.

Interested Person Status – Additional Persons

None

Planning Officer's Report

THIS APPLICATION IS PRESENTED TO THE COMMITTEE BECAUSE THE LOCAL AUTHORITY HAS OBJECTED AND IT IS RECOMMENDED FOR APPROVAL.

1.0 THE SITE

1.1 The site is 32 Summerhill Road, Onchan, a detached house located on the southeast of Summerhill Road, close to its junction with Alberta Drive. There are three bedrooms in the house.

2.0 THE PROPOSAL

2.1 The proposal is for the additional use of the dwelling as a tourist accommodation. The applicant has clarified that this is for a self-contained unit (use class 3.6).

3.0 Planning History

3.1 There is no previous application considered materially relevant to this application.

4.0 Planning Policy

Site Specific

4.1 The site is within an area designated as Predominantly Residential in the Area Plan for the East.

Strategic Policy

4.2 The Isle of Man Strategic Plan 2016 contains the following policies that are considered materially relevant to the assessment of this current planning application:

- o Strategic Policy 5
- o General Policy 2 (b), (g), (h), (i), (m), (n)
- o Transport Policy 7
- o Appendix 7.6
- o Business Policy 13 - Permission will generally be given for the use of private residential properties as tourist accommodation providing that it can be demonstrated that such use would not compromise the amenities of neighbouring residents.
- o Community Policy 7, 10 and 11

PPS and NPD

4.3 There is no relevant Planning Policy Statement or National Policy Directive that applies to this application.

5.0 OTHER MATERIAL CONSIDERATIONS

Strategy and Guidance

5.1 There is no strategy or guidance materially relevant to this application.

6.0 REPRESENTATION

6.1 Onchan District Commissioners objects to this application (10.01.2024). The comment states that if the owner of the property were to occupy the property at the same time with the tourists, there is insufficient parking provision within the site. Clarification has since been made from the applicant that the tourist use is for when they are not occupying the house.

6.2 DoI Highway Services does not oppose this application (03.01.2023). The comment states that there is no significant negative impact upon highway safety, network functionality and/or parking. The comment also states that the proposals would have a similar or less parking demand to the existing dwelling and the adjacent roads are controlled by TRO parking restrictions.

7.0 ASSESSMENT

Elements of Assessment

7.1 The key considerations in the determination of the application are its impact on parking provision and on the amenities of the neighbours.

Parking Provision

7.2 When the house is occupied by one group of tourists, their parking demand and behaviour is considered to be the same as a typical household. There is no increase in parking standard and the current parking provision is considered acceptable.

7.3 It is not proposed that the property would be occupied by both the owner and tourists, it is proposed that it would be used either as a home or a self-contained tourist unit. However, it should be noted that a dwelling may also be used as a B&B under the Permitted Development (Change of Use) Order 2019 (see paragraph 7.6).

7.4 There is no objection from highway services. The house is located near existing bus route. Therefore, the impact on parking is considered to be acceptable.

Neighbouring Amenities

7.5 It is difficult to assess how an individual would behave, whether as a tourist or a resident. As a tourist, a person may be out a lot of the time, but may also have greater late nights and be disruptive on return. In the meantime, both tourists and permanent residents have incentives for organising gatherings, which can easily be carried out till late at night. In general terms, however, the majority of people tend to behave well and raise no concerns. Therefore, it is unlikely for this change of use to have a significant impact on the living conditions of the neighbouring properties.

Fall-back

7.6 The Permitted Development (Change of use) Order 2019 allow a dwelling to be used as guest house with three or less bedrooms without making an application. The proposal would be in compliant with this PDO, meaning a refusal would be in contrary with an approval given by existing legislation.

8.0 CONCLUSION

8.1 It is considered that the proposal would not give rise to an unacceptable impact on amenity or impact on highway safety. The proposal is considered to comply with General Policy 2, Business Policy 13 and Transport Policy 7 of the Strategic Plan. Therefore, it is recommended for an approval.

9.0 INTEREST PERSON STATUS

9.1 By virtue of the Town and Country Planning (Development Procedure) Order 2019, the following persons are automatically interested persons:

- (a) the applicant (including an agent acting on their behalf);
- (b) any Government Department that has made written representations that the Department considers material;
- (c) the Highways Division of the Department of Infrastructure;
- (d) Manx National Heritage where it has made written representations that the Department considers material;
- (e) Manx Utilities where it has made written representations that the Department considers material;
- (f) the local authority in whose district the land which the subject of the application is situated; and
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9.2 The decision-maker must determine:

- o whether any other comments from Government Departments (other than the Department of Infrastructure Highway Services Division) are material; and
- o whether there are other persons to those listed above who should be given Interested Person Status.