



Isle of Man
Government

Reiltys 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, 28th March 2022, 10.00am, in the Ground Floor Meeting Room of Murray House, Mount Havelock, Douglas

Please note that participants are able to attend this meeting virtually via Microsoft Teams. Parties may contact DEFA Planning & Building Control on 685950 in order to register for the meeting invitation link. Further information on how to view the meeting virtually or speak via that medium please see 'Electronic Planning Committee – Supplementary Guidance' available at www.gov.im/planningcommittee

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 14th March 2022.

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 11th April 2022.

PLANNING COMMITTEE Meeting, 28th March 2022
Schedule of planning applications

<p>Item 5.1 The Former Marine Biological Station Breakwater Road Port Erin Isle Of Man IM9 6JA</p> <p>PA20/01467/B Recommendation : Refused</p>	<p>Erection of a building to provide exhibition space, retail, apartments and restaurant with associated parking spaces (relating to PA 19/00373/A)</p>
<p>Item 5.2 Vacant Plot (Plot 3) Plot Adjacent To Hazelwood House Ballaragh Road Laxey IM4 7PH</p> <p>PA21/00737/B Recommendation : Permitted</p>	<p>Erection of a detached dwelling</p>
<p>Item 5.3 Field 124530 Ballakeil Meadow Smeale Road Andreas Isle Of Man</p> <p>PA21/01250/B Recommendation : Permitted</p>	<p>Installation of a polytunnel, tool shed and animal shelter</p>
<p>Item 5.4 20 St Georges Street Douglas Isle Of Man</p> <p>PA21/01398/C Recommendation : Permitted</p>	<p>Continued use of 22 temporary car parking spaces</p>
<p>Item 5.5 Stanley House Second Avenue Onchan Isle Of Man IM3 4LT</p> <p>PA22/00155/B Recommendation : Permitted</p>	<p>Conversion of building into 5 residential units with associated parking</p>
<p>Item 5.6 Cilcen The Hope St. Johns Isle Of Man IM4 3AT</p> <p>PA20/01095/B Recommendation : Permitted</p>	<p>Erection of two storey extension to rear elevation and the creation of rear garden terracing</p>
<p>Item 5.7 Ellan Vannin Main Road Ballaugh Isle Of Man IM7 5EF</p> <p>PA22/00061/B Recommendation : Permitted</p>	<p>Erection of detached garage to the rear (Retrospective) replacing previous timber shed.</p>

<p>Item 5.8 Pound Lane Depot Castletown Road Port St. Mary Isle Of Man IM9 5LT</p> <p>PA21/00857/B Recommendation : Refused</p>	<p>Erection of a dwelling</p>
<p>Item 5.9 1, 1A And 2 Marina Road Douglas Isle Of Man IM1 2HD</p> <p>PA21/01119/B Recommendation : Permitted</p>	<p>Erection of building with commercial/retail use at ground floor and 5 apartments above</p>
<p>Item 5.10 Manninagh / Dalveen Bircham Avenue Ramsey Isle Of Man IM8 2LY</p> <p>PA21/01217/A Recommendation : Refused</p>	<p>Approval in principle for residential development</p>
<p>Item 5.11 Ballaoates Farm Ballavagher Road St Johns Isle Of Man IM4 3JE</p> <p>PA22/00007/B Recommendation : Permitted</p>	<p>Erection of Polytunnel structure with associated works</p>

PLANNING AUTHORITY AGENDA FOR 28th March 2022

Item 5.1

Proposal : **Erection of a building to provide exhibition space, retail, apartments and restaurant with associated parking spaces (relating to PA 19/00373/A)**

Site Address : **The Former Marine Biological Station
Breakwater Road
Port Erin
Isle Of Man
IM9 6JA**

Applicant : **Delgatie Limited**

Application No. : **20/01467/B**- [click to view](#)

Planning Officer : **Mr Paul Visigah**

RECOMMENDATION: To REFUSE the application

Reasons and Notes for Refusal

R : Reasons for refusal

O : Notes (if any) attached to the reasons

R 1. The development would fail to comply with parts 2, 4, 6 and significant parts of part 1 of Development Brief 22 of the Area Plan for the East which sets out the criteria for developing the site, thus failing to comply with General Policy 2 (a) of the Strategic Plan, which requires that new development should accord with the design brief in the Area Plan where there is such a brief.

R 2. Due to the overall height and form it is considered that the development would result in an obtrusive built development within an area with largely unspoilt character and appearance which is acknowledged in the Landscape Character Appraisal within the Area Plan for the South, as meriting protection. Given the layout and overall density, coupled with the quantum of development on the application site, the role of this part of the Peninsula in providing a vegetated, undeveloped backdrop to Port Erin would be diminished, resulting in detrimental impacts on the character and appearance of the area and the context of this part of Port Erin, which is prominent and contributes significantly to the scenic coastal value of the area, contrary to Landscape Proposal 10 and Development Brief 22 of the Area Plan for the South, and Strategic Policy 4(b), Environment Policy 42, and paragraph 7.4.1 of the Strategic Plan.

R 3. The current design, which is a departure from the original design conception has resulted in an unbalanced proposal and disrupts the general rhythm of the overall group of buildings, this coupled with the overall design changes it is considered that the scheme does not contribute to the environment of this part of the island which is prominent and contributes significantly to the scenic coastal value of the island, failing to relate positively and appropriately to the local character as it does not take into account a proper analysis of site context in terms of siting, layout, and scale. The proposal therefore conflicts with Strategic Policy 5, General Policy 2(b & g), Strategic Policy 3(b) and Environment Policy 42 of the Isle of Man Strategic Plan 2016.

R 4. The Public Open Space provisions within the scheme would fail to comply with the policy requirements of Recreation Policy 3 and Appendix 6 of the Strategic Plan in that some of the areas being provided are already available, as such the scheme could be considered to result in the non-protection of existing assets and inadequate provision within the new development

contrary to paragraph 10.3.3 of the Strategic Plan which sets out the approach to ensuring that areas of open space are retained, and provided to meet local needs. The proposal would, therefore, fail to meet the Public Open Space requirements for the level of development as stipulated by Appendix 6, minding the Strategic Plans has clearly stated that developers will not be expected to make good existing deficiencies in recreational facilities as a requirement of carrying out their developments.

R 5. The proposed development does not make adequate provisions for the safety of future occupants of the proposed development in relation rock fall and the use of the landscape gardens and roof terraces, contrary to the requirements of General Policy 2 (m) of the Strategic Plan. The submitted Rock Face and Slope Stability Inspection Report prepared by Ivy House Environmental to address this concern does not make adequate safeguards for future occupants of the development, even as the report does not discountenance the chances of rock fall occurring at the site.

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 (DOI) Flood Risk Management Division;
DofE (Tourism Division)
Department of Home Affairs Fire and Rescue Service
Manx Utilities
Manx National Heritage

It is recommended that the following organisation 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):

The Isle of Man Natural History & Antiquarian Society as they do not own or occupy property that is 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 and 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 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):

3, Viking Close, Ballakillowey, Colby;
Pegasus Group (Queens House, Queens Street, Manchester);
Tinsleys, Spaldrick, Port Erin;
8 South Snowdon Wharf, Porthmadog, Gwynedd, Wales;
Lhie Ny Greiney, Surby Road, Surby, Port Erin;
Ballafesson Farmhouse, Qualtrough's Lane, Ballafesson, Rushen;
Ballacarnane Mooar Farm, Peel Road, Kirk Michael;
20, Fairway Close, Port Erin;
2963 N, Prospect Avenue, Milwaukee, Wisconsin, USA (Wisconsin Manx Society Inc.);

Foraging Vintners, Harbourmaster's Office on Breakwater Road, Port Erin;
12, Bromet Road, Castletown;
Aigney Mie, Shore Road, Gansey;
Regent House, The Promenade, Port Erin;
Papplewick 13, Hill Park, Ballakillowey, Rushen;
Ballakinnag House, Shore Road, Ballaugh;
Suas Ltd, Westminster House, Parliament Square, Castletown;
Beach House, Beach Road, Gansey, Port St. Mary;
1, Bradda View Grove, Ballakillowey, Rushen;
33, Maghergarran, Port Erin;
Soalt, Balnahowe Farm Cottages, Balnahow, Santon;

as they 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.

Planning Officer's Report

THE APPLICATION IS BEFORE THE PLANNING COMMITTEE AS THE PROPOSAL WOULD RESULT IN A DEVELOPMENT OF 8 OR MORE RESIDENTIAL UNITS; AND THE DEPARTMENT HAS RECEIVED SUBSTANTIAL REPRESENTATIONS ON THE APPLICATION.

0.0 INTRODUCTION

0.1 This application is in detail, seeking permission for the principle and detail of the construction of a building/series of buildings which will accommodate a range of uses including residential, aparthotel, marine tourism-exhibition, food and non-food retail and the consumption of food on the premises together with the associated landscaping and car parking.

0.2 This application follows one in principle for the same development - 19/00373/A. The scheme was originally submitted in the form of a reserved matters application to address those matters not approved in the earlier application but the site differs slightly in that it incorporates slightly more land in front of the building, to the west of the public highway and as such the application may not be considered as a reserved matters application and has been changed to a full, detailed application. Whilst it cannot rely upon the approval in principle, the most recent approval granted in principle is a material consideration in the determination of the application.

1.0 THE SITE

1.1 The site is the curtilage of the former Marine Biological Station and its surrounding buildings and land which lies at the westernmost part of Port Erin, at the western end of Breakwater Road. The site also includes a footpath which cuts through the southern section of the site which is over the cliffs and within the grassland above, and drops to the lower parts of the site adjacent the existing substation before connecting to Breakwater Road. The site fronts onto the higher level of the road which is restricted to one way from east towards west for vehicular traffic returning via the lower section where there is on-street car parking, together with an area of roughly finished ground to the west which is part of the site but often used for informal parking as a place from which to look at the bay. The site is the same as that of the application in principle other than for the inclusion of a strip approximately 10m wide to the north west of the existing buildings which was previously shown as being within the blue area - that is, land which is not part of the planning unit but is within the ownership or control of the applicant.

1.2 As was the case when the approval in principle was considered, the buildings on the site are all unused and in varying states of disrepair, through a prolonged period of disuse and there

having been a fire within the main former Marine Biological Station in recent years. The buildings were last used in 2006. The oldest building on the site is finished in a natural slate stone with a hipped, slated roof, red brick detailing above the window and door heads and a circular feature window above the front door, also edged in red brick. There is another part stone finished building alongside which is slightly taller but similar in appearance and this sits alongside a much taller, three storey red brick building which has less detailing. On the eastern side of this building is a metal fire escape.

1.3 To the rear of the buildings is a stone cliff edge which supports land which is up to 21m above site level. A public footpath, part of the Raad ny Foillan, starts at the eastern side of the brick building, climbs the cliff behind it and ascends to skirt the cliff edge and southwards, towards the Calf, affording spectacular views over the bay, towards Milner's Tower and further up, southwards towards the Calf of Man.

1.4 The site includes all of the buildings on the site, the area between them and the watermark to the west and some land to the east of the brick building. The applicant have stated that they will lease additional land to the north - which is currently an area of informal car park, and the land between the upper and lower parts of Breakwater Road (this land is currently outside the redline boundary, although within the ownership of the Department of Infrastructure). This area is currently grassed and slopes downwards very gently towards the bay.

2.0 THE PROPOSAL

2.1 Proposed is the demolition of the buildings on site (for which planning approval is not required) and the construction of multi-use buildings incorporating retail, restaurant and exhibition space (not specifically allocated as such but referred to in the application description), aparthotel rooms and apartment uses with associated landscaping, access, parking and open space.

2.2 The scheme proposes the erection of four blocks which will accommodate a mixture of uses - aparthotel units (14) and apartments (52) totally 66 units which would result in the creation of 9416sqm internal residential floor space, and three commercial units (In block C there is a Class 1.1 Shop - 162sqm and a Sui Generis Exhibition facility - 427sqm; In Block D, there is a restaurant/pub in one - 134sqm). The buildings sit higher than the cliff face behind blocks B, C, and D, with Block A set lower than the cliff face. The buildings, however, follow the rise and fall of the cliff to the rear.

2.3 Block A, the westernmost building on the site will be four storeys accommodating 6 apartments. It will be finished mainly in Sto or similar approved through coloured silicon resin render system, with the ground floor and second floor external walls finished in Cut local natural stone, random coursed plinth/wall panels. The penthouse would be clad in Modular engineering cut Stone Vaneer Rainscreen cladding panel system, suitable for marine environments, while the roof would be made of Metal Standing Seam Roof system also suitable for marine environments. Windows would be IQ or equivalent slim frame aluminium window, with sliding door and curtain walling system made of clear solar control glass, opaque spandrel panels and low maintenance coating to all glass. The top of the roof of this building would be set about 11.2m lower than the top of the stone wall on the nearest part of the cliff to the rear.

2.4 Block B would be an 8 storey building finished in the same materials as Block A. It would contain 28 apartments. The height of the building would be 27.6m above ground level to the top of the penthouse (29.5m to the top of the liftshaft/fire escape on the roof). The top of the roof of this building would be set about 1.5m higher than the top of the stone wall on the nearest part of the cliff to the rear (3.4m from the top of the lift shaft/fire escape on the roof). This building would have car parking at the lower ground floor (24 spaces inside the footprint of the

building including 3 disabled persons' spaces and 4 electric charging spaces with 4 bicycle parking spaces).

2.5 Block C would have eight floors with finishes as per the other blocks. The ground floor will accommodate two commercial units (84sqm and 210sqm) with refuse store. Above this there would be 18 apartments over five floors. The lower ground floor will accommodate 39 parking spaces (5 electric and 2 disabled), cycle store and lifts. The Ground floor will have 23 car parking spaces (2 disabled persons' spaces, 3 electric charging spaces). The roof of the penthouse would be 440mm higher than the stone wall on the top of the cliff at the rear (about 2.3m higher from the top of the liftshaft/fire escape).

2.6 Block D would have a pub/restaurant on the ground floor with five floors of accommodation above - a total of 14 aparthotel units, 12 having a multi-use space and separate bathroom and two each having a separate bedroom and bathroom. This block will be finished to match the other three blocks. The height of this building will be set slightly lower than the stone wall on the cliff top to the rear.

2.7 The apartments are spread across blocks A, B, C with Block A housing 5 two bedroom units, and 1 Three bedroom unit; Block B housing 2 Single bed units, 12 two bedroom units and 14 three bedroom units; while Block C houses 8 two bedroom units, and 10 three bedroom units. Overall, 2 of the apartments would be single bed units, 25 to be two bedroom units, while 25 would be three bedroom units.

2.8 The application clarifies that in respect of commercial space, there will be exhibition space provided in Block C, hot food and drink retail in Block C and the ground floor to Block D with "associated supplementary accommodation" such as a nail bar, hairdresser's in Block C ground and mezzanine floors in a multi-function space. They refer to Cycle 360 and The Bike Shed in Shoreditch, London. In the western most commercial unit there will be a separate coffee shop.

2.9 The Exhibition space would accommodate various displays and information based upon the time of the year. For example, during major motor racing events on the Island the focus would be on motorbikes. When maritime events occur the focus would switch. At other times of the year, for example when basking sharks are likely to appear in the Bay the Manx Wildlife Trust or others would be encouraged to display relevant material. Local heritage or exhibitions by local artists or craft displays could be more regular themes that would be encouraged to take space. The applicants note that the exhibition space can be used in part in relation to marine based activities.

2.10 Other works proposed for the site includes alterations to the existing Substation on the eastern side of the site, by Block D. The changes to building would include:

- o Replacing the facing brickwork with through coloured render applied to existing brickwork behind to match in colour and texture to new adjoining buildings.
- o Removing the existing timber door and frame, and replacing them with new colour coated aluminium doors.
- o Altering the existing mono-pitch roof to create a new flat roof behind raised parapet with single ply membrane roof finish. The new flat roof system would be 3m high from the ground level to the top of the parapet. (The existing building is 2.3m high in front and 4.4m high on the rear elevation).

2.11 It has also been proposed to add a small footpath section to the eastern end of the PROW through a proposed public open space that would be landscaped. The amended site plan was which includes this element in the application was received on 5 October 2021.

2.12 Transport, Access and Parking

2.12.1 The application indicates that the Scheme has been designed to encourage pedestrian and cyclist movement throughout the site, with particularly car movements separated as far as possible, including the basement parking for all the commercial and residential units, so that vehicles do not dominate the street scene.

2.12.2 The scheme would provide for 159 parking spaces (including 12 electric vehicle charging spaces, and 11 spaces suitable for use by disabled persons). 121 of the car parking spaces will be solely for the occupants of the apartments (including 9 disabled parking and 9 electric car parking spaces), 14 for the 14 aparthotel units (including 1 disabled parking and 1 electric car parking space), and 24 including 1 disabled parking and 2 charging point spaces for the restaurant/bar/retail uses and are to be provided.

2.12.3 The apartment's parking spaces are mostly only accessible by those with access to the apartments, other than those in the basement of blocks B and C where the spaces will be clearly marked out so that they are not used by other visitors to this area.

2.12.4 82 cycle parking spaces will be provided for the entire scheme - 52 for the apartments, 14 for the aparthotel, and 16 for the commercial units. The applicants estimate the retail units will generate a demand of up to 7 spaces at its peak with the bar/restaurant up to 8 spaces and estimate a turnover of 20 minutes for each customer and have calculated that the spaces provided will accommodate this level of movement.

2.12.5 The additional off site works which are indicated on the proposed access measures plan (100217_03_0100_01.1) on the land directly opposite the site area (but outside the site boundary) will include the following:

- o Installation of signage at various locations along the road network opposite the site
- o Narrowing of the existing road to enforce one way nature of route
- o Adding footway to western route
- o Installation of pedestrian crossings with drop kerbs and tactile paving. This would include minor kerb re-alignment to the northern side, and alterations to existing parking pavement markings to suit.
- o Creation of a layby for short pickup and drop off use in front of Block C.

2.12.6 The Scheme has been supported by number of reports and addendums, as well as plans to address highway concerns which include:

- a. Dice Consultancy Discharge of Condition 5 - Offsite Highway Works Transport Report
- b. Dice Consultancy Discharge of Condition 6 - Parking Transport Report 100217/MC
- c. Vehicle Tracking plans
- d. Vehicle Tracking swept path analysis, and
- e. Visibility Splay Drawings
- f. Proposed Access Measures plan for off-site highway works

2.13 Open Space

2.13.1 There would be on and off-site provision of Public Open Space (POS) and that outside the site boundary would form the majority of the provision. The POS outside of the site is shown in front of the site and would include a new public art sculpture which would be erected in the larger lease area which measures 2193.3sqm. In total, the leased POS areas would total 3339.6sqm.

2.13.2 To the west of the buildings will be another area of Public Open Space with a footpath link with 1.1m high fencing on the northern side alongside the coastal rocks from the access road into the site which will have standing stones, rock and gravels punctuated by semi natural grass species tolerant of the maritime environment (This is within the site area). A further area

to the north east of block D will be laid out as lawn with low growing shrubs with a gap between it and Block D maintaining the footpath up the cliffs onto the coastal path to the south. This area is to be maintained in a fashion to retain its continuity with the Wildlife Site. The footpath is to be maintained as is.

2.13.3 The scheme proposes about 2,806sqm of private amenity space in the various areas of green roofing and private landscaped areas, balconies and terraces.

2.13.4 With regard to the provision of children's play space, the applicants have stated that discussions have been held with the Port Erin Commissioners who agree with and welcome the contribution of a commuted sum offered by the developers to improving a local play area to the value of c. £20,000, in lieu of on-site children play area provisions. This would be secured through a Section 13 agreement.

2.14 Landscaping

2.14.1 The paving to the raised terraces in front of Block B is to be granite. There are to be roof gardens between blocks B and C and to the rear of block A which has paving and raised beds. To the rear of the buildings between the buildings and the cliff will be areas of roof garden with paving to mimic the tiers of the cliff and small spaces between the cliff and the building will be developed as rock features to transition between the building to the cliff with stone gravel and local plant species which will create habitats which are viewed from above.

2.14.2 The planting drawing describes the species to be introduced: in the eastern area of POS there will be heather, Erica carnea, western gorse, blackthorn and wild rose. The area between the cliff and the rooftop gardens will be cultivated as coastal acid grassland to encourage orchids which are found locally.

2.14.3 The rooftop gardens to the rear of blocks B and C will comprise potentilla, Erica and campanula and that to the rear of blocks A and B will comprise species found on the race of the rock closest to this part of the roof - sea Campion, seat beat, Yorkshire fog, Red fescue and sea mayweed. Landscaping works at ground level here will include the planting of green walls with honeysuckle and clematis which will provide a food source for birds, bats and interpenetrates.

2.14.4 The western area of POS will feature vertical rocks and upright grass species including festuca rubra, Holcus Ianata and Sileneuniflora. The area to the north of the access drive will be lined with stone and planting of specimen ornamental grass species and architectural planting suitable for maritime conditions. Linear planting along the frontage will comprise Carex and Stipa grass species with sculptured features.

2.14.5 A Landscape Management Report prepared by TPM Landscape Ltd, and dated August 2021 has been provided by the applicant and will provide guidance for the establishment, maintenance and future management of external landscaped areas and planting around the development.

2.15 Approach to Affordable Housing

2.15.1 The proposal does not include any provision for affordable housing. The applicants have referred to the previous decision (Approval in Principle) where this was accepted and also argued that since the above consideration, the scheme has evolved to fit in with more stringent detailed design and revised Residential Design Guide requirements in relation to climate change. The number of residential units now proposed is about 30% less than the maximum allowed for by the approval in principle (albeit this was based on the traffic assessment), while it is claimed that costs per unit have increased, with the total costs being shared over a smaller quantum of development.

2.16 Ecology

2.16.1 A Preliminary Ecological Appraisal (October 2020) is provided which identifies:

- o the cliff as key terrestrial habitat and specifically an area of acid grassland containing orchids (protected under the Wildlife Act) which is immediately adjacent to the east of the site;
- o the Meayll Coast Wildlife Site which lies to the rear of the buildings and the site and which includes a section which projects around the south western end of the site; and
- o the existing buildings as providing opportunities for nesting birds and roosting bats.

2.16.2 The PEA identifies the key ecological threats as the loss of nesting sites for herring gull, fulmar and red billed chough on the cliff face and loss of ability to fly to the cliff space due to inadequate spaces between the cliff face and the new buildings, the loss of nesting opportunities for chough, house sparrow and herring gull, and an impact on the cyclical patterns due to light pollution. Concerns in relation to shading and also predation from domestic cats and dogs noted. They recommend various actions as summarised below (a full list of recommendations is contained at Section 5 of the PEA):

- the measures for avoidance of impact during construction works (including timings of work and method statements to inter alia reduce vibration impact); provision of nest sites, nest box, nesting bricks, artificial ledges within the site; provision of a flat green roof on Building B, provision of artificial ledges; retention of cliff faces intact; and avoidance of light pollution; and
- Enhancement in the form of additional nest/bat boxes, native planting and renovation for nesting of small derelict building on the cliff top.

2.16.3 The proposal has so many of these recommendations (some relate to methods of working and so could potentially be conditioned). The derelict stone building referred to in the Design Statement is not in the ownership of the applicant, but could be referenced in a S.13 agreement.

2.16.4 A Breeding Bird Survey (October, 2020 by Manx Wildlife Trust) is provided which identifies Herring Gulls (Red List high conservation concern for severe breeding population decline over the last 25 years), red billed choughs (green list species of low conservation concern but is protected during the breeding season under the Wildlife Act 1990), fulmars, house sparrows (which are Red List species of high conservation concern and protected under the Wildlife Act), robin, wren, rock pipits, jackdaws and linnet. No lizards were observed during the walkover survey although there are records of basking adults within 200m of the site (2007).

2.16.5 A Protected Species Survey (October 2020) confirms that a number of common pipistrelle flew past the buildings and some foraged along the cliff top. No bats were seen emerging from the building (or using the building) and evidence of rat activity was seen.

2.16.6 They identify the following as issues that could impact on protected species at the site:

- o Reduction of space between the proposed buildings and the cliff face compared with the existing situation which reduces foraging areas.
- o Artificial lighting which has the potential to impact on chosen foraging and commuting routes, thereby reducing their foraging resource.
- o The removal of the buildings which would reduce potential future roosts therein.
- o Possible degradation of habitat from additional shading onto cliff vegetation, and
- o Predation from domestic dogs and cats as well as the potential spread of Schedule 8 Species.

2.16.7 They recommend the following to mitigate these impacts:

- o Method statements to demonstrate how impacts on the coastal cliff and its vegetation will be avoided or reduced to insignificant levels covering noise, vibration, dust and general structural stability.

- o Avoiding undertaking works at critical times for protected species (birds and bats).
- o Method statement to address how the structural integrity of stone walls will be maintained
- o Integration of artificial bat roost niches in the new building.
- o Precautionary Working Method Statement to address how works will avoid and/or minimise impacts on coastal grassland to acceptable levels.
- o Precautionary Working Method Statement to avoid impacts on coastal vegetation suitable for Grey Moth which may require a search for eggs and larva (July/August) prior to vegetation removal.
- o Sowing green roofs with sea campion (food for Grey Moth).
- o Areas of Montbretia highlighted to Site Manager and prevention of spread with eradication if avoidance is not possible.
- o Method Statements to demonstrate how site operations will not adversely impact the orchid population.
- o Method statements must be produced to demonstrate how site operations will avoid or minimise to insignificant levels any detrimental impact on habitats and species contained within the Wildlife Site and if detrimental impacts cannot reasonably be avoided, investment in beneficial management for biodiversity elsewhere in the Wildlife Site should be undertaken.
- o Method statements to demonstrate that safeguards are in place to avoid or minimise detrimental impacts on Port Erin Bay Manx Nature Reserve.

2.16.8 A Herring Gull and Fulmar Surveys (July, 2021 by Manx Wildlife Trust) confirms that:

- o The majority of the Herring Gulls were observed on the cliffs around the old buildings with the occasional ones at the edges of the quarry and on the flat roof on the old Marine Lab building. The quarry to the east remains a stronghold for the Fulmar.
- o A pair of Choughs was seen on the 4th and 29th June south of Kione ny Garee and above the field behind the old buildings respectively, in suitable nesting habitat.

2.16.9 The survey concludes that the following species are confirmed breeding on the site:

- o Feral Pigeon
- o Herring Gull
- o Northern Fulmar
- o Eurasian Jackdaw

2.16.10 The applicants have indicated they would be willing to sign a Section 13 agreement which provides for:

- o Wall and Bothy repairs plus any ancillary boundary treatment to secure potential gull nesting from human interface.
- o Provide nesting ledges elsewhere, e.g. on west facing cliff adjacent to site. This will be based upon worst-case scenario that there is 100% loss of nesting by fulmars and herring gulls as a worst case scenario.
- o The scheme to provide for nil impact on marine ecology). Any failure will require mitigation to address this to the satisfaction of DEFRA
- o Provide for monitoring of marine life and water quality in Port Erin bay.

2.16.11 They comment that no areas on the green roofs will be required for ecological functions and that a covenant on tenancy can be inserted on the disposal of the properties along with lighting. They suggest that a Method Statement can be required and an Ecological Clerk of Works will be appointed for the construction of the development.

2.16.12 A recent correspondence has been provided by Brindle & Green Ecological Consultants Ltd provides advice regarding the potential impacts on the reduction in height of building A on breeding fulmars at the site (dated 1 February 2022). This advice which is purely desk based concludes that by lowering Block A's height by two stories between the original

development application and the revised plans, that the approach to the nest site will be more accessible to fulmars at the site. They also indicate support for monitoring, remediation and mitigation to ensure that the reduced height of building A is sufficient in safeguarding fulmars.

2.17 Flood Risk and Drainage

2.17.1 The Flood Risk Assessment prepared March 2019 and revised March 2021 states the following:

- o The site is considered to be at moderate risk from flooding.
- o Details from Manx Utilities modelled tidal flood level for Port Erin for the 1 in 200 (0.5%) Annual Flood Probability plus climate change event of 4.37mAD02 and a review of the topographical survey for the site indicates that the site is wholly located outside of the 'High Flood Risk Zone'.
- o The site is considered to be at low risk of flooding from all other sources.

2.17.2 This FRA includes a Drainage Strategy which will provide a series of pipes that collect surface water from the site and discharge freely into the sea via a new outfall to the north of the site. The surface water system will provide attenuation for flows up to a 1 in 100 year storm event (+ 40 percent allowance for climate change) return period. Foul sewage will be collected and discharged to the existing combined system via gravity.

2.17.3 The Drainage strategy also includes a surface water strategy which consists of a network of surface water sewers which would gather runoff and discharge into the sea. The surface water from the cliff faces will be met by linear systems aligned adjacent to the peripheral retaining walls. This runoff will be collected and discharged into the new surface water network serving the proposed development. It is noted in their statement that this will minimise the risk of surface water flooding which has been indicated in correspondence with Manx utilities on 8 January 2019.

2.18 The applicant has provided additional correspondence on 20.05.21 which confirms their understanding of DoI Flood Risk Management's position in respect of coastal overtopping at the site.

2.18.1 They note in this correspondence that the disposal of surface water run-off by the preferred method of infiltration is subject to verification of suitable ground soakage capacity and no contaminated ground issues. Infiltration testing to BRE Digest 365 has not been undertaken due to the known presence of rockhead at shallow depths and the underlain geology is considered unviable for infiltration as a primary means of surface water disposal. In conclusion, they provided a list of the alternative SuDS features, which were considered for this site with reference to their suitability for the proposed development, prior to settling on the final drainage strategy proposals.

2.19 Other Issues

2.19.1 In relation to Climate Change / Sustainability in relation to the Residential Design Guide 2021

2.19.2 the proposal includes the following:

- o Sustainable Construction. An Energy Strategy report is attached by SVM Building Services, which relates to the Isle of Man context, although it also draws upon the UK National Planning Policy Framework on the same issue. It adopts a fabric first approach and highlights the following:
 - o Improved building envelope with low heat loss. Improved U values, lower air permeability and Improved glazing performance;
 - o Design to maximise natural daylight, Solar gain control measures;
 - o Highly efficient LED lighting;
 - o Communal space heating with high efficiency fossil fuel free Air Source Heat Pump systems;

- o Mechanical Ventilation with high level of Heat Recovery [MVHR];
- o Climate Change Resilience - addressed by the Flood Risk Assessment and Drainage Strategy.

2.19.3 In respect of concerns which have been raised by the Fire and Rescue Service, amendments have been made to the building design to ensure that the scheme meets Fire safety requirements. This has been confirmed by the Fire Service who states that they have no objections to the proposals as now formulated, save for some issues with inner rooms which would be addressed at the Building Control application stage.

2.19.4 The applicant has indicated that they would produce a Construction Management Plan (including Environmental considerations and incorporating the presence of an Environmental Clerk of Works as appropriate) should be conditioned as part of any approval for the scheme.

2.19.5 Following concerns regarding rock fall at the site, the applicant have provided a Rock Face and Stability Preliminary Assessment and its Addendum (both dated 1 October 2021) as additional information in support of the application. Also, a Traffic Impact Assessment and its Addendum have also been provided to address gaps in highway information provided to support the application.

2.19.6 Further to the Rock Face and Stability Preliminary Assessment and its Addendum (both dated 1 October 2021), a detailed Rock Face and Slope Stability Inspection Report prepared by Ivy House Environmental (dated February 2022) has been submitted in support of the application. This report concludes by stating the following:

- o The rock face at the site has inherent global stability, however, there are some failure mechanisms, possibly resulting in minor future rock-fall. The development proposals mitigate against these failure mechanisms, due to the standoff between the rear of the car park and the rock face and the enclosed nature of the car park, which allows for any possible falling materials to accumulate in this area and not affect the rear of the car park or site users.

- o While the rear of the car park structure near Sections B, C and D (rear of Block C) is shown to have a standoff from the rock face, care will need to be taken as to not undermine the face by removing any rock should it be present within the lower slopes. Soil slopes (scree/talus) should be supported by appropriately design retaining walls where necessary, if the existing retaining walls need enhancing.

- o The large sections of overhanging rock in Sections E and H do not appear to be unstable and there is a low risk.

- o It should be noted that there are no records of any historic rockfall and no evidence was found during the inspection.

- o In summary, this assessment and the recommendations contained within has illustrated that the proposed development at the site, and condition of the existing rock face, poses low risks to operatives or end users at the site provided that a considered approach is taken.

2.19.7 The suggested mitigations states include the following:

- o The development proposal, i.e., the construction of the rear wall of the car park being set back from the face and slopes, is likely to mitigate most of the risks associated with spalling of rock material and the failure of the locally thinner overhangs (or the upper soil falling with any supporting overhangs).

- o From inspection, the likelihood of the rock overhangs in Section E (in lower rock face) and H (in mid rock face) failing is low, but the factor of safety against failure (quantified risk) is unknown.
- o Based on the history of the site, PH1 desk study, and this inspection, the current risk to the development building (rear car park) and site users are considered as low, As a result, it is not considered necessary to undertake any immediate remedial measures to the rock face at this present time.
- o While working at the bottom of the face operatives should wear appropriate PPE and plant should be installed with rock-guards (wire cages).
- o Under no circumstances should operatives work at the top of the rock-face without the correct training and safety equipment to prevent or arrest falls.

3.0 PLANNING POLICY

3.01 Area Plan for the South

3.1 The site is designated on the Area Plan for the South (2013) as Proposed Mixed Use and there is a development brief. The site is not within a Conservation Area, and the buildings on site are not Registered. The site is not within a Registered Tree Area, there are no protected trees on site, nor is the site within an area at risk of flooding on the national flood risk maps.

3.2 The site is mostly within the village settlement boundary, the section of the site which accommodates the south western most building lies out with the settlement boundary and which is not designated for a particular purpose. This was incorrectly referred to in the previous application officer's report as being within the settlement boundary and within an area of proposed Mixed Use. The Written Statement of the Area Plan refers to the site as follows:

"3.6.2 Beyond the Village centre, the former Marine Biological Station is now partially occupied but the land around it would benefit from some improvement."

3.2.1 Landscape Proposal 10:

"Any additional new built development on the Meayll Peninsula, other than very limited development near its northern edge at the former Marine Biological Station, should be avoided as such development would adversely affect the largely unspoilt character and appearance of the Peninsula and/or would diminish its role in providing a vegetated, undeveloped backdrop to Port Erin, Port St Mary and Cregneash."

3.2.2 Section 4.61: Site 22

"4.61.1 The former Marine Biological Station sits beyond the lifeboat house, up against the base of the cliffs in the south-western corner of Port Erin Bay. Most of the contiguous land between the former Biological Station and the harbour is vested in the Department of Infrastructure, and is not intensively used. Re-use or redevelopment of the composite site would be of general benefit to Port Erin."

"4.61.2 The buildings which remain on the site became redundant as a Marine Laboratory in 2006, but have recently been let to a new user, keen to see the buildings used for purposes in keeping with their maritime heritage. The buildings and the land around them have considerable potential, and this wider site would support Mixed Use - primarily marine-based tourist/leisure uses (including associated accommodation) - but may also include a residential element."

3.2.3 Section 4.62: Development Brief 22

"1. The use of the land is deemed suitable for marine-based tourist/leisure purposes (including associated accommodation), but an element of residential use may also be considered favourably.

2. Development should preferably make use of all existing buildings on the site, including the re-use of the original Marine Laboratory Building.

3. The overall development site should include not only the former Marine Biological Station site, but also contiguous land vested in the Department of Infrastructure. There should be consultations with the Department at an early stage in the formulation of development proposals.

4. The design of new buildings and the treatment of the spaces between them should reflect the conspicuous nature of the site as viewed from across the bay, and the appearance and character of the emerging Conservation Area.

5. The layout of the site must make appropriate provision for access to the cliff-top footpath from the harbour area. Applicants should be aware that due to the steep nature of the cliff, there exists a possibility that there will be water run-off from the top of the cliff to the cliff base at the rear of the buildings.

6. Port Erin Bay is known for its ecological importance, for example, as a plaice nursery area, basking shark hotspot and as an important dive site. Any new development should be sensitive to this ecological importance and also the scallop 'closed area'.

7. Any proposed scheme must include a Traffic Assessment evaluating the traffic impact of development on pedestrian and vehicular access along the narrow section of Shore Road."

"6.30.1 The Harbours Division is also considering the development of further marine based leisure at Port Erin. Improvements to the harbour facilities in this location could be integrated with proposals to develop the former Marine Laboratory site and its immediate environs."

Finally, the Marine Biological Station is listed as a building to be researched for potential Registration. The site does not lie within the village's proposed Conservation Area whose boundary stops to the east before meeting the site.

3.2.4 The character Appraisal for Rushen (including Ballafesson) states the following concerning the area:

"3.17 Implications of the Landscape Character Assessment

Landscape Types - Coastal Cliffs, Incised Slopes, Uplands, Undulating Lowland Plain, Islands Landscape Area - H2 (Fleshwick), H3 (Bradda Head), H4 (Cregneash Head and Meayll Peninsula), A2 (Southern Uplands), F8 (Poyll Vaaish and Scarlett Peninsula), J1 (Calf of Man).

i. A number of Landscape Character Types/Areas are identified in Rushen stretching from the Southern Uplands to the Meayll Peninsula. Care is needed in order to protect this array of different landscapes which include open and windswept coastal stretches and inland moorland, high and dramatic sea cliffs and pastoral and arable fields.

ii. The Parish of Rushen is split into 3 distinct physical areas by the local authority areas of Port St Mary and Port Erin. The largest area stretching from its boundary with Patrick in the north to the boundaries of Port Erin and Port St Mary. The other 2 areas are the Meayll Peninsula and the Calf of Man. The Landscape Character Assessment stresses the importance of avoiding the coalescence of Ballafesson and Port Erin and also Port Erin and Port St Mary. Sufficient green space should be retained between the settlements of Ballafesson, Port Erin, Ballagawne/Ballakillowey, and Port St Mary to ensure preservation of their separate identities.

iii. Avoid any new areas of ribbon development along the southern coastline at Bay ny Carrickey".

3.3 Given the nature of the application it is appropriate to consider the following policies within the Strategic Plan:

3.4 Strategic Policy 1: "Development should make the best use of resources by:

- (a) optimising the use of previously developed land, redundant buildings, unused and under-used land and buildings, and reusing scarce indigenous building materials;
- (b) ensuring efficient use of sites, taking into account the needs for access, landscaping, open space(1) and amenity standards; and
- (c) being located so as to utilise existing and planned infrastructure, facilities and services."

3.5 Strategic Policy 3: "Proposals for development must ensure that the individual character of our towns and villages is protected or enhanced by:

- (a) avoiding coalescence and maintaining adequate physical separation between settlements; and
- (b) having regard in the design of new development to the use of local materials and character."

3.6 Strategic Policy 4: "Proposals for development must:

- (a) Protect or enhance the fabric and setting of Ancient Monuments, Registered Buildings, Conservation Areas, buildings and structures within National Heritage Areas and sites of archaeological interest;
- (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; and
- (c) not cause or lead to unacceptable environmental pollution or disturbance."

3.7 Strategic Policy 5: "New development, including individual buildings, should be designed so as to make a positive contribution to the environment of the Island. In appropriate cases the Department will require planning applications to be supported by a Design Statement which will be required to take account of the Strategic Aim and Policies."

3.8 Strategic Policy 9: "All new retail development (excepting neighbourhood shops and those instances identified in Business Policy 5) and all new office development (excepting corporate headquarters suitable for a business park location) must be sited within the town and village centres on land zoned for these purposes in Area Plans, whilst taking into consideration Business Policies 7 and 8."

3.9 Spatial Policy 2: "Outside Douglas development will be concentrated on the following Service Centres to provide regeneration and choice of location for housing, employment and services

- o Ramsey
- o Peel
- o Port Erin
- o Castletown
- o Onchan

Area Plans will define the development boundaries of such centres so as to provide a range of housing and employment opportunities at a scale appropriate to the settlement."

3.10 General Policy 2: "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 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."

3.11 General Policy 4: "Where appropriate the Department will enter into Agreements under section 13 of the 1999 Town and Country Planning Act which may:

- (a) restrict the use of land;
- (b) require land to be used in a particular way;
- (c) restrict the operations which may be carried out in, on, under or over land;
- (d) require operations or activities to be carried out in, on, under or over land or;
- (e) require payments to be made to the Department either in a single sum or periodically, in particular as commuted sums for open space or parking provision, or other social or cultural provision, including public art, which is necessary and directly associated with the development proposed".

3.11.1 "6.4.2 Planning Agreements will not be used to support the approval of proposals which are not in accordance with the Aim, Objectives and Policies of the Plan.

To date, Planning Agreements have only been used in a limited number of cases. Supplementary Guidance will be prepared for Agreements under Section 13 of the 1999 Town and Country Planning Act, to be read in conjunction with the Strategic Plan. This will set out the principles and practice of the Department to ensure consistency and to avoid unnecessary delay to the planning and development system".

3.12 Paragraph 7.8.5 - 7.8.6

"7.8.5 In considering any development proposals on sites recognised for their ecological and scientific value, the Department will give full consideration to the legislation, policies and conservation objectives, which may be relevant including the Wildlife Act 1990 and species listed in Schedules 1-8 to the Wildlife 1990 Act and other habitats and species which are widely regarded as locally important. In association with the Department of Agriculture Fisheries and Forestry and the Department of Transport, the Department has commissioned the Manx Wildlife Trust to undertake a survey of locally significant sites. The results of this survey work will be available for public scrutiny before inclusion in Area Plans as they become available.

7.8.6 Development which would affect any proposed or other recognised site of conservation value, including areas of ecological interest, will only be permitted where it can be demonstrated that:

- o the proposed development will not compromise the conservation objectives of the site or unacceptably harm its conservation value and its overall integrity;
- o there is proven public interest where safety or exceptional social or economic considerations outweigh the ecological importance of the site; and
- o the need for the development cannot be met in other less ecologically damaging locations or by reasonable alternative means.

3.13 Environment Policy 4: Development will not be permitted which would adversely affect:

(a) species and habitats of international importance:

- (i) protected species of international importance or their habitats; or
- (ii) proposed or designated Ramsar and Emerald Sites or other internationally important sites.

(b) species and habitats of national importance:

- (i) protected species of national importance or their habitats;
- (ii) proposed or designated National Nature Reserves, or Areas of Special Scientific Interest; or
- (iii) Marine Nature Reserves; or
- (iv) National Trust Land.

(c) species and habitats of local importance such as Wildlife Sites, local nature reserves, priority habitats or species identified in any Manx Biodiversity Action Plan which do not already benefit from statutory protection, Areas of Special Protection and Bird Sanctuaries and landscape features of importance to wild flora and fauna by reason of their continuous nature or function as a corridor between habitats.

Some areas to which this policy applies are identified as Areas of Ecological Importance or Interest on extant Local or Area Plans, but others, whose importance was not evident at the time of the adoption of the relevant Local or Area Plan, are not, particularly where that plan has been in place for many years. In these circumstances, the Department will seek site specific advice from the Department of Agriculture, Fisheries and Forestry if development proposals are brought forward."

3.14 Environment Policy 7: "Development which would cause demonstrable harm to a watercourse, wetland, pond or dub, and which could not be overcome by mitigation measures will not be permitted. Where development is proposed which would affect a watercourse, planning applications must comply with the following criteria:

- (a) all watercourses in the vicinity of the site must be identified on plans accompanying a planning application and include an adequate risk assessment to demonstrate that works will not cause long term deterioration in water quality;
- (b) details of pollution and alleviation measures must be submitted;
- (c) all engineering works proposed must be phased in an appropriate manner in order to avoid a reduction in water quality in any adjacent watercourse; and
- (d) development will not normally be allowed within 8 metres of any watercourse in order to protect the aquatic and bankside habitats and species."

3.15 Environment Policy 24: Development which is likely to have a significant effect on the environment will be required:

- i) to be accompanied by an Environmental Impact Assessment in certain cases; and
- ii) to be accompanied by suitable supporting environmental information in all other cases.

3.16 Environment Policy 42: "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.

3.17 Paragraph 7.35: Urban Regeneration

7.35.1 Within some of the larger towns on the Island, there are areas which are showing signs of deterioration and degradation. Often these areas are characterised by older housing stock, limited investment, empty and underused buildings, derelict sites and generally poor environments. As a result these areas can suffer from economic, environmental and social problems which need tackling holistically to stem the process of decline and to encourage regeneration. Areas which are considered to be in need of regeneration should be identified in Area Plans and any schemes or proposals whether for refurbishment, environmental improvements or complete redevelopment must be formulated by involving the local community which would be directly affected by the regeneration of the area. The Department also supports, in general, environmental improvements to our towns and villages.

3.18 Environment Policy 43: The Department will generally support proposals which seek to regenerate run-down urban and rural areas. Such proposals will normally be set in the context of regeneration strategies identified in the associated Area Plans. The Department will encourage the re-use of sound built fabric, rather than its demolition.

3.19 Housing Policy 5: "In granting planning permission on land zoned for residential development or in predominantly residential areas the Department will normally require that 25% of provision should be made up of affordable housing. This policy will apply to developments of 8 dwellings or more."

3.20 Housing Policy 17 provides advice on the conversion of buildings into flats. Whilst the proposal is for new build apartments, the standards set out here are useful:

"(a) adequate space can be provided for clothes-drying, refuse storage, general amenity, and, if practical, car-parking;
(b) the flats created will have a pleasant clear outlook, particularly from the principal rooms and
(c) if possible, this involves the creation of parking on site or as part of an overall traffic management strategy for the area."

3.21 Business Policy 1: "The growth of employment opportunities throughout the Island will be encouraged provided that development proposals accord with the policies of this Plan."

3.22 Business Policy 9: "The Department will support new retail provision in existing retail areas at a scale appropriate to the existing area and which will not have an adverse effect on adjacent retail areas. Major retail development proposals will require to be supported by a Retail Impact Assessment.

(1) Retail Impact Assessment is defined in Appendix 1.

3.23 Business Policy 10: "Retail development will be permitted only in established town and village centres, with the exceptions of neighbourhood shops in large residential areas and those instances identified in Business Policy 5."

3.24 Strategic Policy 6:

"Major employment-generating development should be located in existing centres on land zoned for such purposes and identified as such in existing Local or new Area Plans".

3.25 Recreation Policy 3: "Where appropriate, new development should include the provision of landscaped amenity areas as an integral part of the design. New residential development of

ten or more dwellings must make provision for recreational and amenity space in accordance with the standards specified in Appendix 6 to the Plan."

3.26 Recreation Policy 4: Open Space must be provided on site or conveniently close to the development which it is intended to serve, and should be easily accessible by foot and public transport.

3.27 Paragraph 10.3.3

"10.3.3 The Strategic Plan needs to facilitate sport and recreation opportunities and to ensure that areas of open space are retained, and provided to meet local needs. The Strategic Plan will facilitate this by a three pronged approach:

- a) protecting existing assets;
- b) making good deficiencies in existing provision; and
- c) providing adequate provision within new development.

In pursuing these three objectives, it is recognised that developers will not be expected to make good existing deficiencies in recreational facilities as a requirement of carrying out their developments".

3.28 Transport Policy 1: New development should, where possible, be located close to existing public transport facilities and routes, including pedestrian, cycle and rail routes.

3.29 Transport Policy 2: The layout of development should, where appropriate, make provision for new bus, pedestrian and cycle routes, including linking into existing systems.

3.30 Transport Policy 4: "The new and existing highways which serve any new development must be designed so as to be capable of accommodating the vehicle and pedestrian journeys generated by that development in a safe and appropriate manner, and in accordance with the environmental objectives of this plan."

3.31 Transport Policy 6: "In the design of new development and transport facilities the needs of pedestrians will be given similar weight to the needs of other road users".

3.32 Transport Policy 7: "The Department will require that in all new development, parking provision must be in accordance with the Department's current standards."

3.33 Strategic Policy 10: "New development should be located and designed such as to promote a more integrated transport network with the aim to:

- (a) minimise journeys, especially by private car;
- (b) make best use of public transport;
- (c) not adversely affect highway safety for all users, and
- (d) encourage pedestrian movement"

3.34 Parking: The Strategic Plan requires there to be one space for every single bedroomed apartment, two spaces for units with two or more bedrooms, assembly and leisure facilities require one space per 15 sq m nett floorspace, retail units in the town centre require space for servicing the units. The Plan also states that:

"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."

3.35 Recreation Policy 5: "Area Plans will identify areas where improvements to informal access to the countryside can be made and to the public footpath network. Existing public rights of way should be retained and any development which affects these will be permitted only if it provides diversions which are no less direct or attractive than existing routes."

3.36 Energy Policy 5: The Department will prepare a Planning Policy Statement on Energy Efficiency. Pending the preparation and adoption of that PPS the Department will require proposals for more than 5 dwellings or 100 square metres of other development to be accompanied by an Energy Impact Assessment.

3.37 Strategic Policy 8: Tourist development proposals will generally be permitted where they make use of existing built fabric of interest and quality, where they do not affect adversely environmental, agricultural, or highway interests and where they enable enjoyment of our natural and man-made attractions.

3.38 Section 7.11: Coastal Planning and Development

"7.11.1 It will be the role of Area Plans to reconcile development requirements with the need to protect, conserve and, where appropriate, improve the landscape, environmental quality, ecology, cultural heritage, wildlife habitats and recreational opportunities of the coast. Whilst there is not at the moment a defined 'coastal zone', this may come forward via the revision of the Landscape Assessment. Whilst this new designation may result in specific policies for the management and protection of the coastline, the following points will be taken into account in the preparation of Area Plans and the consideration of planning applications, including proposals for marine installations where these are subject to planning control. It is generally understood that planning legislation extends as far as the mean high water mark and the Department of Transport Harbours Division controls the inter-tidal margins.

- o Policies should aim to protect and enhance the character and landscape of the undeveloped coastline.
- o Coastal locations should only be proposed for development which needs to be on the coast.
- o The undeveloped coast will rarely be the most appropriate location for development.
- o Where new development requires a coastal location, the developed coast will normally provide the best option, provided that due regard is paid to the risks of erosion, flooding or land instability.
- o New coastal development should not generally be permitted in areas which would need expensive engineering work, either to protect developments on land subject to erosion by the sea or to defend land which may be inundated by the sea. There is also the need to consider the possibility of such works causing a transfer of risks to other areas.

3.39 Environment Policy 11: 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.

3.40 Paragraph 7.4: Landscape Protection

"7.4.1 Development which is permitted in 'Areas of High Landscape or Coastal Value and Scenic Significance' or in important landscape and coastal areas as recognised by any new landscape classification, will be subject to higher design standards than would normally be required. Development must be properly integrated into the landscape in terms of scale, materials, architectural style, engineering works and landscaping. Landscape features such as trees, hedgerows, sod banks or traditional stone walls which are important to landscape character should be retained. In cases where development is not capable of being sensitively and unobtrusively integrated into the landscape, permission will not be granted".

3.4 Other policies within the Strategic Plan which are considered relevant in the assessment of the proposal are; Infrastructure Policy 5, Community Policy 11, Community Policy 7 and Community Policy 10, and Environment Policy 36 (given the proximity of the site boundary to the boundary of a Conservation Area).

4.0 OTHER MATERIAL PLANNING CONSIDERATIONS

4.1 Whilst not adopted planning policy, DEFA's Residential Design Guide (2021) is a material consideration in the assessment of this application as, "It is intended to apply to any residential development within existing villages and towns, including individual houses, conversions and householder extensions...". Sections 2.0 on Sustainable Construction, 3.3 on Transport Issues, 3.4 on Private and Public Space, and 3.5 on Public Open Space, are considered relevant to the current scheme.

4.2 The Manual for Manx Roads

4.2.1 The following sections of the Manual for Manx Roads are particularly relevant:

- i. Section 2.3 - Enabling Walking and Cycling
- ii. Section 2.5 - Supporting Safety and Security
- iii. Section 4 - Promoting Active Movement
- iv. Section C.2 Cycle Parking Standards
- v. Section C.3 Electric Vehicles
- vi. Section C.5 Parking for Disabled Users

4.3 IOM Active Travel Strategy 2018 - 2021

4.3.1 The Overarching principles of this strategy and the action plan are to:

- o enable more active travel by creating a safe, convenient and effective active travel network for people to use; and
- o encourage and promote a shift of choice to active travel modes for everyday functional trips.

4.4 Port Erin Draft Conservation Area Character Appraisal (2009)

4.4.1 "2.4.2. Characterisation:

The categorisation of the conservation area into these character types are outlined below.

Marine: The Marine area is the area to the South of Port Erin Bay comprising the Marine Biological Station, the Herdman Institute, breakwater (and associated engine shed), Raglan Pier, the old and the new lifeboat stations, the Bay Hotel and some shops and private houses in the same area. This area is centre for marine activity in the village, partly dictated through the introduction of the Raglan Pier and the (still effectual but damaged) breakwater, both of which create a calmer sea environment in the south of the bay. The area is particularly important in the conservation area as it demonstrates the importance of fishing to the village (it was one of the key industries for the village), and also shows the link between the village and the sea - both in terms of rescue (the lifeboat stations) and research (the marine biological station)".

"2.4.4. Registered buildings

Unregistered buildings:

In terms of unregistered buildings in the conservation area, there are a number of buildings which should be noted here as either particularly positive, or negative buildings. Positive buildings are those which, according to the guidance used in the UK48 'make an important contribution to the character of a conservation area'. These buildings are seen as the epitome of the architecture in the area, and the design of any future development in the conservation area should mirror these buildings in preference to the negative buildings listed later in this report. In addition, it would be particularly detrimental to the conservation area if these buildings were demolished".

Positive buildings in the conservation area are:

- o Marine Biological Station, Old Lifeboat Station and the Herdman Institute, Shore Road - These are all historic buildings of importance to the village and as such their preservation is important. (Only the older parts of the Marine Biological Station are seen as positive).

Negative buildings included in the conservation area are:

- o New Buildings, Promenade - There are two new buildings currently being built on the Promenade, one located between Erin Court and the Ocean Castle Hotel, and the other replacing the Bay View Hotel. We anticipate that the style of these buildings will also be inconsistent with the historic appearance of the Promenade

- o The new wings of the Marine Biological Station - These sections of the Marine Biological Station were erected in the 1960s and later and are unattractive and utilitarian additions to an important historic building. These should not be emulated in building design in the area".

"5.3.2. Positive and negative buildings:

As detailed above, there are a number of positive and negative buildings in the conservation area. It is recommended that when considering planning applications, only planning applications which emulate the design of positive buildings should be approved. In the same light, it is recommended that any proposals for the alteration or replacement of negative buildings should only be allowed where they are designed in a fashion that is more sympathetic to the area. This guidance is particularly relevant for the Promenade, where there is an original building line, clearly visible from a large proportion of the village which is important to maintain".

4.5 Isle of Man Non-Serviced Accommodation Futures - Final Report

4.5.1 Planning Policy Recommendations

"It will clearly be some time before planning policy can catch up. We have thus suggested two quicker, more proactive solutions that could be considered to bridge this current policy gap:

- o A clear articulation of what is meant by 'overriding national need';

In terms of defining what is meant by 'overriding national need', we have suggested a number of tests or criteria that could be considered in terms of:

- o Extending the season/attracting visitors outside the main May-September period;
- o Serving and helping attract target markets - accommodation aimed at families, empty-nesters, walkers, cyclists etc.;
- o Securing and attracting investment from both Island and off-island developers and investors - with developers signed up;
- o Showing 'additionality' in terms of providing something not already offered on the Island; meeting an identified gap in supply; attracting new markets rather than diluting existing ones; or bringing an established national or international brand name to the Island and all that brings with it in terms of profile, customer databases, and the ability to drive new demand through marketing, central reservations and customer loyalty schemes;
- o High quality, distinctive accommodation provision;
- o Spreading tourism activity and benefit geographically across the Island;
- o Encouraging longer stays and greater visitor spend as a result;
- o Inclusivity and contributing to the health and well-being agenda, e.g. the provision of accessible accommodation, provision for outdoor activities, accommodation that helps connect with nature;
- o Environmental sustainability in terms of eco-friendly accommodation development that respects, protects and enhances the Island's landscape and natural environment and develops its reputation as a sustainable tourism destination".

4.6 Isle of Man Hotel Futures - Final Report

4.6.1 Glossary of Hotel Definitions

"Aparthotels, Suitehotels and Serviced Apartments

A new generation of hotel accommodation that combines an element of self-catering through the provision of a kitchen in each unit, together with hotel services, including reception, daily cleaning, linen, toiletries and a hotel-style booking system. They are generally aimed at the extended stay market, and whilst they can offer rooms from one night upwards, most request a minimum stay. Some are purpose-built units in one ownership; others are individually owned and managed by an agency. Brands such as Staybridge Suites will also provide a limited food offer e.g. buffet style breakfast. Brand examples include Staybridge Suites, Residence Inn, Beyond, Bridge Street Worldwide, SACO".

4.6.2 "6.4. Concluding Comments

6.4.1. The Isle of Man Hotel Futures Study shows a hotel industry that has been in decline for some time, and that has fallen behind competitor island and resort destinations in terms quality. With clear strategies now in place for economic, population and leisure tourism growth over a longer season there is a clear need and potential for the renewal of the island's hotel offer through investment in existing stock and some new hotel provision. The realities of operating and developing hotels on the island are however hampering the industry's ability to respond to these opportunities and requirements. There is a clear case therefore for Isle of Man Government intervention in terms of financial assistance, advice and planning support, alongside the implementation of the Vision 2020 economic growth strategy and the new Destination Management Plan, to achieve a more compelling and competitive hotel offer on the island. The challenge going forward is to translate the recommendations of the Hotel Futures Study into an integrated programme of support that will accelerate investment in existing hotels and guest houses, and help bring forward new hotels that can meet the requirements of corporate hotel users and grow the island's leisure tourism market".

4.7 IOM Destination Management Plan 2016-2020

4.7.1 Part 3: How do we get there?

"This section of the DMP provides a summary of the Strategic Objectives and Programme of Activity that will be undertaken for the period 2016 - 2020. The Strategic Objectives are based on evidence and research that has been reported and commissioned over the past two years by Isle of Man Tourism. They cover the 5 key aspects of development for the Visitor Economy up to 2020 and will be supported by annual Operational and Marketing Plans showing each year's work in more detail.

The Strategic Objectives that will be implemented during the period 2016 to 2020 are as follows.

o PRODUCT DEVELOPMENT:

4.7.2 "d) Championing new investment and product development.

OBJECTIVE: Develop and create new products and experiences that the defined target markets will enjoy at different times of the year. This will help to achieve growth in the market areas as well as achieve a longer tourism season".

4.8 Wildlife Act 1990

4.8.1 "Marine nature reserves [P1981/69/36]

(1) Where, in the case of any land covered (continuously or intermittently) by tidal waters or parts of the sea in or adjacent to the Island up to the seaward limits of territorial waters it appears to the Department expedient, on an application made by the Wildlife Committee that the land and waters covering it should be managed by the Department for the purpose of —

(a) conserving marine flora or fauna or geological or physiographical features of special interest in the area; or

(b) providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to marine flora and fauna and the physical conditions in which they live, or for the study of geological and physiographical features of special interest in the area,

the Department may, subject to section 37(3), by order designate the area comprising that land and those waters as a marine nature reserve; and the Department shall manage any area so designated for either or both of those purposes".

5.0 PLANNING HISTORY

5.1 There have been three recent applications on the site which are relevant to the determination of the current application.

5.2 PA 13/00459/A - approval in principle for the conversion of existing educational establishment into a Marine Interpretation Centre including an associated retail unit and cafe, dive centre, offices for marine related businesses and a 20 bedroomed hotel with parking and landscaping. This application was approved by the Council of Ministers, following a recommendation for refusal by an independent inspector who was concerned that it had not been demonstrated how sufficient car parking could be laid out in a visually acceptable manner in this prominent and sensitive location. COMIN did not agree with this, considering that such concerns could be met by conditions which had been suggested by the inspector.

5.3 PA 13/00460/B - full approval for erection of extensions and conversion of existing educational establishment into a Marine Interpretation Centre including an associated retail unit and cafe, dive centre and offices for marine related business. This was refused by Council of Ministers for the following reasons:

"With reference to the alterations and vertical extension proposed to the building at the eastern end of the site, the proposal would result in that building becoming overly dominant and intrusive in visual terms, to the detriment of the architectural and historical interest of the original Marine Biological Station building and also to the detriment of the general character and appearance of the existing group of buildings and of the area. It would thereby conflict with the intentions of parts b and c and g of General Policy 2 of the Isle of Man Strategic Plan and with the Development Brief for site 22 of the Area Plan for the South."

"The proposal makes inadequate provision for car parking within the defined application site, and as a consequence would be likely to result in additional on-street parking to the detriment of the safety of highway users and the free flow of traffic. It would thereby conflict with the intentions of Transport Policy 7 and parts h and i of General Policy 2 of the Isle of Man Strategic Plan."

5.4 Planning approval has also been granted for the conversion of a former coal shed further north along the quay, to a facility for the sale, storage, distribution and manufacture of alcoholic drinks (16/00527/C) now known as "Foraging Vintners" and in operation.

5.5 The most relevant previous application for the site was for approval in principle for the erection of a building to provide exhibition space, retail, apartments and restaurant with associated 159 parking spaces under PA 19/00373/A.

5.5.1 The approval in principle proposed new buildings which would have accommodated a combination of exhibition space, an aparthotel, non-food retail, apartments, retail and a restaurant together with 144 parking spaces - 63 at ground and 81 at basement level which were shown in an illustrative form in the submitted plans. No matters were to be determined at that time and all were to be subject to a further application or applications for the details of

access, siting, internal layout within the buildings, design and external appearance of the buildings and landscaping of the site. The application, nevertheless, included information to demonstrate how some of these issues could be resolved. A sketch of how the building could look was included - this showed that the building would have been similar in height to the current proposal, although no elevation drawings were provided.

5.5.2 The site plan showed an indicative layout of four elements one of which was completely separate from the others and where two of the other units abutted each other and two others were linked by a stairwell. The exhibition space unit, building 4 (now D) was shown as a six storey building at the eastern end of the site, with the exhibition space sitting below 5 apartments - one per floor. Next to this and linked to it is building 3 (now C), a larger six storey building which was to accommodate two retail areas and a restaurant in between at ground level with 38 apartments above. Next to the west, building 2 (now B) was another six storey building which will accommodate one retail unit and an adjoining restaurant with 3 apartments on the ground floor and 29 apartments above. Finally, building 1 (now A) was a five storey building comprising 8 apartments and an integral triple garage and would have sat at the western extent of the site.

5.5.3 Fourteen of these apartments were shown as being intended for hotel occupation and shown to be located on the first floor in Building 3. The apartments were arranged such that other than for buildings 1 and 4 and the penthouses of the other buildings, there will be apartments contained solely within the rear of the building.

5.5.4 The application also provided an Environmental Risk Assessment which looked at potential contamination, instability, pollution, hydrological issues and this concluded that there were no likely risks to or from the development.

5.5.5 The application also provided a flood risk assessment which had been prepared following discussions with Manx Utilities who considered that the site is at moderate risk of flooding from surface water. The site is at low risk from other potential sources of flooding and is not in a high flood risk area. The site and surrounding area are unsuitable for infiltration as a primary source of surface water disposal.

5.5.6 Following concerns raised by Highway Services, an additional Transport Assessment was submitted. This considered the highway network including the pedestrian access which is not via a consistent footway from the village to the site. The report stated that there are many facilities within a 2km radius - restaurants, recreation facilities, bus stops, the railway stations, post office and shops and the Southern Group Medical Practice. They noted that some parts of the link between the site and the village involve a steep incline and there are a number of issues which were itemised in the report as concerns that needed to be addressed.

5.5.7 The application involved a number of alterations which were all within the highway and thus not subject to planning control, as they were not within the defined site boundary.

5.5.8 The proposal made no provision for affordable housing or public open space (Housing Policy 5 and Recreation Policy 3). The applicant put forward the case that the site is not designated for residential use nor is it within an area of predominantly residential use or character as is required by HP5, and supported this claim with a number of reasons to justify exemption.

5.5.9 In terms of public open space, the applicant suggested that the site and development are very different from residential areas and residential use represents one of five proposed uses in the development. They also provided a number of justifications to support their lack of POS provisions for the development. They were, however, open to the idea to provide some services

- water and electricity to the open area in front of the building which is used for public events following discussions with Port Erin Commissioners regarding public open space.

5.5.10 Additional Payments

o Upon any sales at any time a 20% value figure must be factored in to be paid to the vendor (in this case Department of Infrastructure). They understand that this is to the direct benefit of the Isle of Man Government, but it is, of course, a further substantial cost to the developer. This means that whenever all or part of the property is disposed of, 20% of the proceeds revert to the Government. This would apply to both the whole site, but also the disposal of individual units.

5.5.11 This was approved subject to the following conditions:

C1. The development hereby approved shall be begun either before the expiration of four years from the date of this approval or before the expiration of two years from the date of approval of the last of the reserved matters.

Reason: To comply with article 14 of the Town and Country Planning (Development Procedure) (No2) Order 2013.

C2. Application for approval of the reserved matters 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: To avoid the accumulation of unimplemented planning approvals.

C3. Approval of the details of siting, design, external appearance of the building[s], internal layout, means of access, drainage, landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Department in writing before any development is commenced.

Reason: to comply with the Town and Country Planning (Development Procedure)(No2) Order 2013.

C4. The application for the reserved matters must include a survey of the existing habitat on the cliff and broogh to the rear of the site together with an assessment of impact on the ecology of this area which is a designated Wildlife Site and measures for mitigation of any adverse impact thereon. The development must be undertaken in accordance with the details of mitigation. The applicant is encouraged to incorporate features which would be complementary to the existing habitats nearby through the use of planting, green walls, nest boxes or other appropriate features.

Reason: to ensure compliance with Environment Policy 4 and the Wildlife Act 1990.

C5. The application for the reserved matters must include details of the traffic management work described in the Transport Assessment together with a timetable for the implementation of these works.

Reason: to ensure that the development has an acceptable impact on highway safety.

C6. The application for reserved matters must demonstrate that sufficient car parking is provided to service the development in accordance with the standards in the Strategic Plan. If the standards in the Strategic Plan are not being met, justification for setting these aside must be provided in the application.

Reason: to accord with Transport Policy 7 in the interests of highway safety.

C7. The apart-hotel units hereby approved shall be used solely as serviced apartments and shall not be used as separate residential units or occupied as a person's sole or main place of residence or for any other purpose between the months of April and September (inclusive).

Reason: For the avoidance of doubt and to ensure the development fulfils the role of temporary hotel accommodation during the holiday season.

C8. This approval relates to a maximum of 83 apartments of which at least 14 shall be used as aparthotel suites and with retail, non-food retail, restaurant and exhibition space as generally shown in the submitted plans.

Reason: the approval is based upon a transport statement which is supportive of this level of development.

C9. No part of the building may be occupied until such times as there is in place a scheme which has first been approved by the Department, which provides electricity and water to the public open space immediately in front of the perimeter road which fronts the proposed building.

Reason: to enable the public open space to be better used for recreation and entertainment purposes.

C10. No guest or customer of the aparthotel units may occupy any part of the accommodation for a period exceeding 28 days during the months of April and September (inclusive). Furthermore, before the apart-hotel units are brought into use, a management plan detailing the booking system for the serviced apartments shall be submitted to and agreed in writing by the Department. The plan shall include:

- i) the maximum permitted stay in the serviced apartments,
- ii) a system for keeping a register of customer bookings and a means by which the Department can check the register to ensure that the maximum permitted stays are enforced.
- iii) These registers shall be kept for not less than two years from the date of the last entry and shall be made available to be inspected by the Department upon reasonable demand.
- iv) The units shall be operated in accordance with the approved management plan.

Reason: to ensure that the development is only used and occupied as short-let holiday accommodation during the holiday season.

C11. The aparthotel rooms hereby permitted shall be used for holiday accommodation only for the previously specified periods and shall for those periods be used for no other purpose (including any other purpose within Class 7 of the Schedule to the Town and Country Planning (Permitted Development) Order 2012, or any Order revoking and re-enacting that order with or without modification.)

Reason: to maintain the availability of the units as short term holiday accommodation during holiday season.

C12. The ground floor uses, where not shown on the submitted plans as being apartments, must be used for retail, shopping, cafe, community or exhibition space and all open to the visiting public.

Reason: to ensure that the building has at least on the ground floor, a public function and purpose to add interest and vitality to this end of the village.

NOTE: The applicant is encouraged to design a scheme which comprises a broken form, rather than one large building mass and a variety of different finishes and which has regard to the natural context of the site in terms of materials and colours. It should also be noted that the rear of the building(s) will also be publicly visible from the footpath to the east and south and as such, the rear elevation should present an attractive facade to the south.

6.0 REPRESENTATIONS

Copies of representations received can be viewed on the government's website. This report contains summaries only.

6.1 Port Erin Commissioners have stated that they support the application (10 February 2021/12 May 2021/15 September 2021/13 October 2021/ 09 March 2022).

6.2 DOI Highway Services that had initially sought additional information (28.01.21 and 25.02.21), and confirmed that they do not oppose the application subject to conditions which secures the accesses, internal circulation, and bicycle and car parking as shown in the submitted drawings following the submission of further information Highway Services (19.04.21), have asked for further details to clarify issues between the interface at east of the public right of way and the amended external works and landscape plans for the mezzanine level (23 August 2021).

6.2.1 Having reviewed additional plans and additional information with the applicants, DOI Highways have stated that the development does not raise any significant highway safety or network functionality issues, and as such they continue to not oppose this proposal subject to conditions to cover the accesses, internal circulation and bicycle and car parking arrangements set out on the Drawings No's detailed above, the site plan: RBA_224_ (2) _A004 and the current individual block plans at lower ground and ground level showing detailed ramp and parking arrangements. They further advise that off-site works should be conditioned too as such works fall outside the scope of a s13 Planning Agreement; considering these works are integral to the development as they would minimise the scope for conflicts between pedestrians, cyclists and vehicle drivers, avoid street clutter and respond to current guidance. Additionally, they conclude that the off-site highway works would provide suitable access for emergency and service vehicles as well as practical delivery and collection of goods and services, including those for waste collection (13 October 2021).

6.2.2 They note further amendments uploaded and make no further comments in their representation dated 13 October 2021.

6.2.3 They note the additions and amendments uploaded on 21 February 2022, and state that the reduction in units does not alter the comments made on 13 October 2021 (25 February 2022).

6.3 Representation from the Department of Infrastructure (DOI) Flood Risk Management Division initially requested a deferral pending the submission of a Flood Risk Assessment (19 February 2021). On 25 March 2021, they confirm that they do not object to the application. Further to the previous representations on the scheme, they confirm that there is no objection in respect of the impact of coastal overtopping in the letter dated 14 May 2021.

6.3.1 Having received further queries on coastal overtopping for the site, DOI Flood Risk Management was consulted for conclusive advice on overtopping. Their comments dated 6 October 2021 reads thus:

The tidal flood level for area for the 1 in 200 plus climate change event is 4.57mAD02. The area where the buildings are being constructed are well above this level. There hasn't been a wave overtopping study done for Port Erin. We would not envisage that with the proposed buildings

elevation and position that they would be significantly affected by wave overtopping and for that reason we do not oppose the proposed development.

6.4 DEFA's Ecosystems Policy Team

6.4.1 Office sought additional time to comment on the application (3 February 2021).

6.4.2 They comment further on 10 March 2021, stating the following:

6.4.1.1 General Issues:

- o They are not opposed to the application
- o There are a number of ecological issues which need resolving prior to the determination of the application.
- o They refer to the Department's position 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.
- o They refer to the Future Fisheries Strategy which outlines policies to guide the sustainable development of the Island's commercial and recreational fisheries including Safeguarding the Marine Environment and the inclusion of spatial management to help maintain commercial fish stocks noting that Port Erin Bay Marine Nature Reserve forms part of the network of protected marine areas.

6.4.1.2 Fulmars:

- o They identify issues with nesting fulmars noting that this species return to the same nest each year and the cliffs provide an established nest site for 8 breeding pairs.
- o They note that the application suggests that the development may result in the loss of these nesting sites due to inadequate space between the building and the cliff together with the potential impact of artificial light and the disturbing impact of people on balconies next to the cliff and this has not been explored and this is likely to be a significant negative factor.
- o The proposed mitigation of artificial nest ledges is "novel" and "as yet untested" and the existing scientific evidence does not support this measure being successful.
- o They note that the Design Statement refers to this as being enhancement rather than mitigation.
- o They are supportive of the concept of the introduction of the nest ledges but do not accept that this alone is sufficient to mitigate the potential loss of the existing nest sites.
- o They note that without a significant reduction in windows in the southern elevation, there does not seem to be any suitable space for the ledges on any of the elevations.
- o They suggest potential avoidance including the redesign of Block A so that greater space is provided between the building and the cliff and between the building and the MNR, or the removal of Block A.
- o In terms of compensation, a condition should be attached requiring a 5 year monitoring and aftercare programme for fulmars including the identification of proportionate off site compensation should the 8 breeding pairs nests be lost partly or entirely.

6.4.1.3 Herring Gulls:

- o They refer to herring gulls and agree that the proposals within the application will acceptably and successfully provide for this species although they query whether the green roof areas intended for potential nest sites would also be used by the occupants.
- o They add that as gulls tend to be aggressive, and may conflict with the occupants and they also add that the gulls may end up using the ledges instead of the fulmars.
- o A monitoring and aftercare condition is also recommended for herring gulls.
- o They require further information in the form of a lighting plan making use of screens and baffles, details of the nest opportunities in relation to windows and balconies and how the ownership of cats will be prevented.

6.4.1.4 Invasive Species:

- o They refer to montbretia and invasive species and recommend that none should be planted as part of the landscaping scheme.

6.4.1.5 Marine Nature Reserve:

- o They do not consider that adequate consideration has been given to this and there remain concerns regarding the proximity to the highest astronomical tide, the potential for short term interactions between the proposed development and the MNR and the potential for long-term impacts post construction on the MNR as a result of the proximity of the high density dwellings without sufficient buffer between the two.
- o They ask whether the full extent of the prevailing south westerly wind and the exposure of the site with the predicted long term sea level rise and storm surge and wave overtopping have been considered.
- o Other concerns include chemical run off from the construction, drainage from the car parking areas and potential vehicle contaminants and the lack of provision for combined sewer overflows or any other potential routes for sewage overflow into the bay.
- o They refer to a future project for restoration of historic eelgrass which may take place in the vicinity of the site and it should be confirmed that the proposed development does not adversely affect.
- o The request that an ecological survey of the MNR would be vital for decision making.

6.4.3 Following amendments to the application the Ecosystem Policy Team have made the following comments in a letter dated 19 October 2021:

6.4.3.1 They object to the application due to:

- o The fundamental impacts on nesting fulmars, which are an Isle of Man red-listed species (highest conservation concern) and a designation feature of Port Erin Bay Marine Nature Reserve.
- o Potential marine environmental impacts on the adjacent Marine Nature Reserve (MNR) subject to consideration and statutory agreement of a detailed monitoring and remediation plan which can be conditioned as part of any development approval.

6.4.3.2 They note that:

- o Should the application be granted approval despite the objections, the details of previous progress made regarding potential mitigation and compensation, which are outlined in a draft section 13 agreements in letter dated 22 September 2021 may ultimately form the basis of subsequent planning considerations and conditions.
- o They note that the numbers of fulmar and herring gull varied throughout the breeding season but, for the purpose of this proposal, the maximum number of Apparently Occupied Nests (herring gull) and Apparently Occupied Sites (fulmar) should be assumed. As such, taking the maximum numbers from the recent survey; 17 pairs of fulmars and 25 pairs of herring gull breeding on site, and to ensure no net loss for biodiversity, any proposed mitigation needs to reflect this.

6.4.3.3 Impact on Fulmars:

- o The need to integrate Fulmar Avoidance Measures in the proposed development.
- o No justification as to why avoidance measures have not been considered or applied are evident in the revised planning application, as on-site mitigation measures appear unfeasible and unproven.
- o The need for the development to consider the limited evidence available, including knowledge about basic fulmar ecology, which strongly suggests that fulmar will not remain on site and a worst case scenario must be assumed.
- o The possibility for significant conflict to occur between fulmars and residents of the apartments.
- o No acceptable on-site mitigation for fulmars has been proposed, or is considered likely to be successful.
- o Fulmar Compensation Measures should only be considered as a last resort where avoidance and other measures do not completely mitigate an impact.
- o Off-site compensation measures for fulmars: there is also no scientific evidence to suggest that such compensation measures would be successful.

- o As there has been no attempt to reduce the size of block A, to avoid or significantly reduce the impacts on nesting fulmar, and as there is no proven mitigation or compensation measures available for fulmars, they retain their objection to this planning application on this basis.

6.4.3.4 Impact on Herring Gulls

- o Herring Gulls are Isle of Man and UK red list species of highest conservation concern and they are also one of the designation features of Port Erin Bay MNR.
- o The Manx Wildlife Trust's Breeding Bird Survey report 2021 found that 25 pairs of herring gulls nested on site in 2021.
- o Mitigation for herring gull is proven, in-principal simpler to provide, and easier to accommodate on site as herring gull are known to nest in close proximity to humans, though this does also come with associated conflict issues between humans and gulls.
- o The mitigation proposal for nesting gulls is acceptable.
- o If residents do find that gulls are an issue and they wish to exclude them, then off-site compensation may be required.
- o As with fulmars we maintain our objection to this application until such a time as detailed S18 agreements have been reached to cover an ongoing monitoring programme and further herring gull mitigation should negative impacts be found and for the Wall and Bothy repairs including ancillary boundary treatment to secure potential gull nesting from human interference.

6.4.3.5 Other Nesting Bird Considerations

- o It is unclear as to how long-term impacts on nesting birds can be accommodated within the current planning process, and it is recommended that consideration is given to this issue.
- o Sensitive low level lighting, including use of baffles and screens will be required to protect cliff-nesting birds, migrating birds and marine life from the damaging impact of artificial light from Blocks B, C, and D.
- o The use of 'Feature Lighting' to the front of the façade may/is inappropriate given the setting and without appropriate mitigation.
- o Bothy repairs form an essential part of the development's ecological mitigation and therefore the specific details need to be formalised and integrated into a legally binding agreement.
- o There are concerns relating to the potential ornithological impacts of keeping cats in the apartments
- o Cliff netting of the site as mitigation to rock fall could potentially impact on birds at the site.

6.4.3.6 Fisheries and Marine Conservation Interests:

- o The potential impacts of the proposed development on the Port Erin Bay MNR have not been fully considered or addressed.
- o The developers need to clarify the distinction between the development and its proximity to HAT prior to determination of this application.
- o Detailed surface water management for the site should be built on nil-marine input.
- o The monitoring of Longer-Term Ecological Impacts (post construction) should include an ecological survey of the adjacent MNR (spatial extent to be agreed).

6.4.4 Following further amendments to the application the Ecosystem Policy Team and Fisheries Division (which relate to Marine Nature Reserves and Fisheries interests) have made the following comments in a letter dated 18 March 2022:

6.4.4.1 Fulmars:

- o They state that it would be preferable if Block A were removed entirely. However, they acknowledge the reduction of Block A, as this is was determined to be one of only two, feasible mitigation measure on site for fulmars.

- o They note that with this alteration, it is considered more likely that fulmars would be able to continue nesting in this location, although this cannot be guaranteed.
- o They note that Brindle and Green's letter, while supportive of the height reduction, does not state categorically that the alterations to Block A will be sufficient to ensure that fulmars will remain on site (as there is simply not enough scientific evidence available to be certain of this).
- o They state that they have determined to withdraw their objection on the grounds of nesting fulmar, but only on the basis that conditions are secured on approval to achieve the following:
 - the construction of Block A is undertaken as shown in the revised plan drawings (Street Elevations Drawings (Revision P04 dated 01/02/22) and the various Block A Elevation Drawings (Revision P03 dated 01/02/2022))
 - a fulmar monitoring and mitigation strategy, during and post construction, to assess the potential impact of this development on fulmar at this site (as an Isle of Man red-listed bird species of highest conservation concern), is submitted to Planning for written approval and for the monitoring and any subsequent mitigation measures to be undertaken in strict accordance with the approved strategy. This strategy must include a mechanism for securing further mitigation/compensation/remediation measures should impacts from the development be shown.
 - a low-level, and ecologically-considered, lighting plan to be submitted to Planning for written approval prior to any works taking place, to ensure that nesting fulmars are not impacted by lighting originating from in and around the new buildings.
 - Measures to be put in place to prevent bird strikes onto the building's many glass balustrades and balconies.

6.4.4.2 Herring Gulls:

- o They note that as with fulmars, monitoring of nesting herring gulls during and post construction is required, to assess the impact of the development on this Isle of Man and UK red list species of highest conservation concern and to secure further mitigation/compensation/remediation measures should the monitoring show negative impacts on nesting gull populations.

6.4.4.3 Fisheries and Marine Environmental Impacts:

- o They note that outstanding issues remain in relation to the Port Erin Bay Marine Nature Reserve (MNR).
- o These issues relate to these relate to the proximity of the proposed development to the MNR and the potential for interactions and negative impacts upon the MNR, which is statutorily designated and protected under Manx legislation.

6.4.4.4 Interactions between the proposed development and the MNR:

- o They re-iterate that the sea in this location is a Marine Nature Reserve and therefore any discharge from the site, especially an unrestricted and potentially contaminated discharge (as proposed on Drawing 100217_03_500_01 Revision C), remains unacceptable, as this could result in harmful pollutants, such as foul water, PAHs (from car parks) nutrients, pesticides and microbiological contaminants, entering and negatively impacting the protected marine environment.
- o They request that updated drainage proposals are provided to ensure that there is a nil impact to the MNR from foul water, storm water and surface water.
- o They suggest the following Conditions in relation to the MNR:
 - No foul water discharge to the sea, including the use of combined sewage overflows (CSOs), or equivalent.
 - No surface water discharge to the sea, including Storm Overflows (SOs).
 - No development to take place until a foul, surface and storm water drainage strategy, detailing any on and/or off site works that may be needed to dispose of foul and surface water from the development and which results in no outfall to Port Erin Marine Nature Reserve, has

first been submitted to Planning for written agreement and for no part of the development to be occupied until the agreed drainage strategy has been implemented.

- o They reiterate that the foul and surface water outfall is a fundamental outstanding issue of this application for the protection of the Marine Nature Reserve, and which needs to be resolved. The Fisheries Directorate and Ecosystem Policy Team will maintain their objection to the application unless the above conditions are secured on approval.

- o They state that there is also an outstanding issue in regards to marine monitoring and mitigation, as Monitoring pre, during and post construction is required to assess the impact of the development on the MNR and determine if the measures to be implemented to protect the MNR are working.

- o They request that a condition be included to ensure this is integral to the development.

6.4.4.5 Additional considerations:

- o Cliffe netting: they recommend that to future-proof the non-installation of cliff netting at the site, that a condition is secured to achieve no netting of the rock face for any reason.

- o They suggest that an alternative condition could be secured for a cliff stability mitigation strategy to be developed in case of future rock falls, and which acknowledges the exclusion of cliff netting.

6.4.4.6 A suggested list of recommended conditions are provided.

6.5 DEFA's Inland Fisheries Policy Manager confirm that they have no objection to the application from a fisheries perspective given the nature of both the watercourse and the proposed works in a letter dated 7 September 2021.

6.6 Isle of Man Fire and Rescue Service (Department of Home Affairs)

6.6.1 They previously stated that the submitted plans do not meet with the Fire Precautions (Houses in Multiple Occupation and Flats) Regulations 2016 on 10 April 2021.

6.6.2 Having reviewed the amended plans and additional information, they state that the revised plans addresses the issue with the need for an additional staircase for buildings over 11m, as well as show inner rooms which are not permitted under the 2016 Regulations (2 September 2021). However, it has been agreed that the developers would submit plans at the Building Control stage to rectify these issues.

They further state that plans to be submitted should include solutions to the inner rooms within the conventional flats and also the duplex arrangements where the staircase discharges into the kitchen and living room.

6.6.3 Further to reviewing amended plans, they note that the submissions relate to planning approval only, but highlight the need for the building control submission to address concerns unacceptable inner rooms flagged in their representation on 2 September 2021 (11 October 2021).

6.6.4 They note that the amendments relate to planning approval only. However, they indicate that the issues identified in their correspondence dated 2 September 2021 (regarding inner rooms that are not permitted under 2016 regulations, and the duplex arrangements where staircases discharge into the kitchen/living room) have not yet been addressed by the applicant (8 March 2022).

6.7 Having identified possible issues with rock fall at the site, the Head of Design, Highway Services, DOI was consulted for comments on Geotechnical Assessment submitted by the applicants to address this concern. His comments received 18 October 2021 concludes that:

- o The likelihood of rock fall hazards would be low as the cliff face consists predominantly of exposed rock with minor areas of erosion materials in mid slope areas and its lower slopes.

- o The history of the site indicates that in relatively modern times there were several extensions to the original building most recently a three storey lecture theatre extension added at the rear of the original building. The addition of this building extension resulted in local rock face strengthening works.

- o The building control application that will be required should contain therein a Structural Engineer's/Geo Technical Engineering assessment of the existing rock face and confirmation of its stability in light of the proposed development incorporating retail, apartments and restaurant with associated parking.

6.8 Manx National Heritage express concern about the impact of the development on breeding birds nesting in the cliff behind the development and refer to the Wildlife Act 1990 and recommend that work on the project is undertaken outwith the bird breeding season (March to August) in a letter dated 08 February 2021.

6.9 Isle of Man Natural History and Antiquarian Society state that they continue to object to the application on the following grounds in a letter dated 10 March 2021:

- o The current proposal is overly dominant to the detriment of the general character and appearance of the area and contrary to parts (b), (c), and (g) of general Policy 2 of the Isle of Man strategic Plan and with Development Brief for Site 22 in the Area Plan for the South.

- o The westerly block falls entirely outside of the Mixed Use designation contained in the Port Area Village Plan map in the Area Plan for the South and is not within any area zoned for development.

- o It will have a severe adverse impact on the coastal scenery of this area, the backdrop to the proposed Conservation Area and views of Port Erin both from the north (Bradda Head) side of the bay Landscape Area H3 and from the sea from which many people do enjoy the views when approaching Port Erin by boat.

- o The proposal would be contrary to Landscape Proposal 10 of the Area Plan for the South.

- o The proposal represents gross over-development of the site and its surroundings.

- o The Marine Biological Station building has the potential to be listed as a registered building and as such attempts should be made to retain this building via a full photographic survey completed and lodged, to the same standard as for a Registered Building.

- o The Society requests that if approved the building should be subject to a condition that protects the Marine Biological Station building.

6.9.1 Further to reviewing the revised plans, the Isle of Man Natural History & Antiquarian Society has made the following additional comments on the application in a letter dated 20 September 2021:

- o Isle of Man Natural History & Antiquarian Society objects to this application.

- o The proposal is still too massive for the site and will detract from the quality of the landscape both as seen from across Port Erin Bay and from the Raad ny Foillan.

- o The Society also believes that new building ie Block A should not be permitted on the open space currently on the westward seaward side of the existing complex as this six storey block will be apparent from Raad ny Foillan north of Port Erin and possibly from some distance away and not enhance the landscape. It is also not on land zoned for development.

- o If approved, it should be a condition that the cliff-side wall should be repaired to match the existing wall prior to the commencement of any works on the site. This is to protect the safety of Raad ny Foillan walkers.

6.10 Manx Utilities Drainage initially requested new drawings (08 February 2021 and 18 February 2021) and confirmed on 05 May 2021 that the most recently submitted information satisfies their concerns.

6.11 Since the proposed scheme has a significant tourism element, the DoFE (Tourism Division) were consulted for comments on the application on 30 September 2021. Their response received on 14 October 2021 states thus:

- o The Visit Agency does not normally comment on mixed-use residential applications, noting that the majority of this development is for residential apartments and commercial space incorporating aparthotel rooms.
- o The provision of aparthotel accommodation at this location somewhat satisfies the findings of the 2016 Isle of Man Hotel Futures Study.
- o The Study only references scope for aparthotel development in Douglas to meet corporate demand for this type of accommodation in the capital. However it does also indicate that aparthotels are becoming increasingly popular with leisure markets, which is more likely to be the opportunity in Port Erin.
- o In addition, the proposed aparthotel element of the scheme is consistent with the ambition set out in the Visit Isle of Man Strategic Plan to 2023 to grow the Island's annual visitor numbers to 340,000 by 2023 and to meet the needs of our current and developing visitor markets.

6.12 Representations from Local residents and other third parties

A. Objectors to the scheme:

6.13 A resident of Milwaukee, Wisconsin, USA recalls researching at the site in the past and noted the nature and ecology around the site. He refers to other parts of the world where coastal development is not allowed and where renewable energy is required to be installed. He considers that the site is ideal for a marine biological museum and Manx Museum. He is considering returning to the Island but would not consider living here if this building is erected (24 January 2021).

6.14 The Owner/Occupier of 3, Viking Close, Ballakillowey, Colby.

6.14.1 They object to the application on the following grounds (28 February 2021):

- o A previous scheme for the site was refused on the basis that it was overly dominant and intrusive in visual terms to the detriment of the architecture and historic interest of the original Marine Biological Station buildings and also to the general character and appearance of the existing group of buildings and of the area.
- o They would prefer to see the original Marine Biological Station building retained as a feature of the history of the village.
- o The proposed building has dwarfed the original footprint of the buildings and is a gross over-development of the site, disproportionate to the site and all its surroundings. It will be the most dominant statement building in Port Erin and not in keeping with any part of it.
- o The scale does not reflect any development south of the Island or in prominent coastal locations and is reminiscent of the very worst of unsympathetic over-development in places like Malta.
- o The development will completely dwarf all of the buildings in the vicinity and does not represent the character of Port Erin.
- o The development would impact on unspoiled nature which is the key attraction for visitors to places like Port Erin, untouched by modernity. This is completely at odds with that.
- o The building will be too large and too modern for the location and the vehicles generated by the proposal may impact on the highway network and pedestrian safety.
- o They query what provisions are there for these additional residents in terms of local infrastructure.
- o They wonder whether those behind the scheme are aware of the prevailing weather so close to the coast.
- o They wonder how the finishes will weather and whether the design of the roof will stand up to the prevailing wind: they do not consider that the site is suitable for any kind of residential development.

- o They wonder what measures are taken in respect of protecting the bird nesting sites alongside and whether the occupants will be affected by them if they remain, in the future.

6.14.2 This correspondent submits further correspondence on 01.03.21 and 16.04.21 referring to the "woefully inadequate" provision of electric vehicle charging points in relation to the Climate Change Mitigation Strategy and the lack of information on the inclusion of renewable energy within the buildings. They refer to the impact on breeding birds on the cliffs behind and consider that the proposed mitigation is not acceptable to offset the harm caused and future potential conflicts between the human and bird populations in such close proximity. They consider the proposed landscaping will not be successful in such a harsh and exposed position and does not understand the function of the green roofs and whether they are to be accessible by the occupants or not. They also refer to how air will pass around the buildings and a possible funnelling effect.

6.14.3 Having reviewed the additional documents, this correspondent has made further comments dated 10 September 2021:

- o The proposed development is still disproportionately large and its light colour (which is apparently lighter) would make it stand out and totally dominate the key views towards Port Erin.

- o The Isle of Man Birdlife has recently published the first Red List of Birds for the Island - the list of bird species of conservation concern in the Isle of Man (BoCCIoM 2021). Herring Gulls are on the Red list - the list of those species of the greatest conservation concern. The proposed development site is a long-established Herring Gull breeding area. A large number of our bird species are under increasing threat (some have now been completely lost locally) because of habitat degradation caused, in part, by development.

- o A development of this nature and scale, with the accompanying prolonged building works and the likely introduction of dozens of domestic cats and dogs in the immediate vicinity of a breeding site of a Red list species is not doing any good in strengthening wildlife protection.

6.14.4 Having reviewed the amended documents, they state that their previous comments remain unchanged considering nothing substantive appears to have changed with the scale and design of the proposed development (14 October 2021).

6.15 Pegasus Group (Queens House, Queens Street, Manchester), representatives of an unspecified party object to the application on the following grounds (11 February 2021/9 September 2021):

- o The loss of the Marine Biological Station has not been formally approved and little regard or tribute has been paid to the site's past in the proposal.

- o The scale, height and visual impact would be unacceptable and have harmful and unprecedented impacts on the sensitive and protected environment around the site and would conflict with the approval in principle in terms of it being larger and being partly outwith the settlement boundary.

- o The application cannot be a reserved matters application as the site is not the same as that for the approval in principle although the application was amended prior to the submission of these comments to be a full, detailed application.

- o As the approval in principle contained little in the way of information on siting, design, access, drainage and landscaping, no assumptions can be made that any of these elements of the current application are acceptable and what were submitted were for illustrative purposes only.

- o The description of the development omitted the demolition of the buildings and the approval in principle did not include it.

- o There was no assessment of the heritage value of the existing buildings.

- o The site could be redeveloped whilst retaining the existing buildings or some of them.

- o What is proposed would harm the proposed CA and its setting.

- o site sits within an area of High Landscape Value and Scenic or Coastal Significance on the Town and Country Planning (Development Plan) Order 1982 and as such Environment Policies 2 and 11 of the Strategic Plan and General Policy 2 are relevant.
- o The village has retained much of its fishing and marine heritage and the few buildings at the site are smaller scale and did not match the scale of development elsewhere on the upper promenade.
- o The use of light coloured render and the scale of the building "lacks understanding of the historical development of the settlement and the different character areas of the townscape".
- o No contextual images are provided to show how the building will sit in its context.
- o The development will be contrary to Landscape Character Areas H3 and H4 which includes the sounds of nature (the sea and the birds) which could be adversely affected by the proposal.
- o There is no clear evidence to demonstrate that the development satisfies Environment Policy 11 and would not require additional coastal defence measures to preserve the property and public safety

6.16 The Owners/Occupiers of Tinsleys, Spaldrick, Port Erin, object to the application with the following comments in a letter dated 25 August 2021:

- o The scale and height of the proposed buildings are excessive and would constitute a gross intrusion into the cliff scenery on the south side of Port Erin Bay.
- o The abandoned remains of the old Marine Biological Station are a shocking example of neglect and the lack of effective legislation to mitigate the blight of derelict buildings in the Isle of Man, there is no wisdom in replacing one eyesore with another.
- o The photo montages produced by the applicants illustrate just how intrusive this development would be.
- o The development represents a brutal concrete and glass construction not dissimilar in style to some of the 1960's tower blocks which are now thankfully demolished in numerous UK cities.
- o The extreme exposure of this site to adverse sea and weather conditions is a concern.
- o The prospect of a rust stained concrete edifice of the scale and style proposed for this beautiful coastal location should be considered.

6.17 The Owner/Occupant of 8 South Snowdon Wharf, Porthmadog, Gwynedd (an off Island address), object to the application on the following grounds in a letter dated 2 September 2021:

- o The north elevation will be seen from the Promenade, the Brooghs and paths to Bradda Head. No image of the proposed south elevation is provided. Since the site abuts the first complete national coastal footpath in the world, the site is particularly important and so deserves a good design.
- o Constructing a new building of this size will have a big carbon footprint. That will include transport for all imported materials.
- o A heat pump could reduce the carbon emissions when the building is occupied, but not to zero or anything near zero.
- o An imaginative design could incorporate passive solar gain in an interesting south facing elevation.
- o Solar powered photovoltaic cells have been installed elsewhere in the Island on roofs in exposed coastal houses. And as such could be included in the scheme.
- o There are errors on the application form concerning the local authority for the development and ownership of the site.

6.18 The owners/occupiers of Lhie Ny Greiney, Surby Road, Surby, Port Erin.

6.18.1 They object to the application on the following grounds (6 September 2021):

- o The structure proposed is completely out of keeping with its surroundings, by virtue of its size, shape and geometrical glass and white render frontage.

- o It would not be out of place in a modern urban environment, but is totally unsuited to a prominent site forming part of the magnificent cliff scenery of the Island's West coast.
- o It would spoil the view towards the Calf from the popular paths out along Bradda Head.
- o Any new development on the site should be sympathetic in scale and appearance to its surroundings, as was the original stone-faced Marine Biology Station building.
- o Many Mediterranean coastlines has been wrecked by intensive and unsympathetic developments and should not be replicated on the Isle of Man should.

6.18.2 Having reviewed amendments to the scheme the owners/occupiers of Lhie Ny Greiney, Surby Road, Surby, Port Erin have reiterated their objection for the proposed development noting the following reasons (18 October 2021):

- o With the modest reduction in height now proposed, the structures is still completely out of keeping with its surroundings, by virtue of its size, box shape and geometrical glass and render aspect. This is particularly well illustrated by CGI 3.
- o The effect of distance minimises the initial impact when CGI 1 is viewed, but on closer examination the unsympathetic nature of the proposed structure is clear.

6.19 The owners/occupiers of Ballafesson Farmhouse, Qualtrough's Lane, Ballafesson, Rushen object to the development with the following comments (7 September 2021):

- o The area and height of the buildings are vastly greater than that taken up by the Marine Biological Station. The site is in a prominent one in a coastal area of high landscape value.
- o The design of this development has all the charm of the '60's and '70's hotel blocks that blight so many coastal towns on the Continent.
- o The developers appear to have given scant consideration to the extremely exposed nature of the site.
- o The development represents an overbearing prospect in what is in effect open countryside.
- o The multiple owners of the many flats will ensure that it will not be as simple to remove as a Council owned city tower block.

6.20 The owners/occupiers of Ballacarnane Mooar Farm, Peel Road, object to the development with the following comments (9 September 2021):

- o The current plans are far too drastic and far from in keeping with the bay.
- o Although the additional accommodation and footfall would undoubtedly be beneficial to Port Erin it comes at too much of a cost.
- o The development would stand out and spoil the beauty of the bay and also risk the loss of the UNESCO Biosphere status.
- o The height of the proposed building currently at above the cliff would dominate the view from above walking down Bradda head and from the beach. This would blight the view from Bradda head across the Meayll Peninsula to the Calf.
- o If the proposals were reduced by at-least two storeys, then it 'may' fit in with the surrounding headlands either side of the bay.
- o The foot print of the side is also large and likely to spoil the view.

6.21 The owner of 20, Fairway Close, Port Erin.

6.21.1 The state the following (12 April 2021):

- o They are in favour of appropriate scale and type of development on this site.
- o They expresses concern about the traffic implications of the development and welcomes the absence of proposals to alter the cliff.
- o They are concerned about the impact which the work to the highway will have on the area and asks that in the interests of equality that the full length of the footway of Strand Road is improved to be of sufficient width for safe passage by all.

6.21.2 Having reviewed amendments to the application, further representation has been submitted on 9 October 2021 by the owner of 20, Fairway Close, Port Erin which highlights the following:

- o The proposal is out of scale on grounds of height and length of frontage, and also for reasons of transport and accessibility.
- o DOI comments do not address concerns regarding hazardous inadequacy of footways and carriageways on Strand Road and Shore Road. This is a dangerous omission in view of the traffic that would be generated by this scale of development.
- o They express concerns regarding access of bus stop and railway station which only serves the upper promenade, as well as inadequate roads to serve the area.

6.22 A resident of 2963 N, Prospect Avenue, Milwaukee, Wisconsin, USA (Wisconsin Manx Society Inc.) has made the following comments regarding the application (24 January 2021):

- o This correspondent notes the biodiversity that are on/around the site which includes Herring population and seagulls, and the research opportunities offered by the site to study the birds, tide pools, and life in the ocean.
- o He refers to other parts of the world where coastal development is not allowed due to global Warming and rising seas, and where renewable energy is required to be installed.
- o He considers that the site is ideal for a marine biological museum and Manx Museum.
- o He opines that this space could be offered to other Universities, such as Oxford and Cambridge for regular summer classes and important research.

B. The following correspondents support the application:

6.23 The Owner/Occupier of Foraging Vintners, Harbourmaster's Office on Breakwater Road, Port Erin (29 February 2021):

- o They support of the development, considering that the development will improve what has become an unauthorised camper van site lacking any proper facilities.
- o What is proposed will allow residents and the public to enjoy the amenities of the site and with sufficient car parking.
- o As business operators they welcome more hospitality, hotel and retail businesses to be located in this area and they do not view the project as impeding or competing with them but rather enhancing and ameliorating this part of the village.
- o They consider the design and density of development as appropriate and consider that public transport may improve to this part of the village as a result of the development being here.
- o They anticipate greater passing footfall and the development will help ensure that the village is less seasonal and has more all year round options.

6.23 The owner of 12, Bromet Road, Castletown, considers that the scheme is amazing for the south for a site which has been a mess for a long time and which will create more footfall and jobs and give the village a much needed lift, only adding to the other businesses pushing down south (29 January 2021).

6.24 The owners/occupiers of the flowing properties also support the application, considering the scheme well thought through and will offer new facilities in and bring more people to this part of the village. Some note that the existing buildings on the site are an eyesore and what is proposed would be a good use of a brownfield site and that whilst the proposed buildings are not the same as what exists, designs and styles change over time and this should be of its time not a poor replication of the original:

6.25 Aigney Mie, Shore Road, Gansey (02.02.21)

6.26 Regent House, The Promenade, Port Erin (02.02.21)

6.27 Papplewick 13, Hill Park, Ballakillowey, Rushen (02.02.21)

6.28 Ballakinnag House, Shore Road, Ballaugh (04.02.21)

- 6.29 Suas Ltd, Westminster House, Parliament Square, Castletown (03.02.21)
- 6.30 Beach House, Beach Road, Gansey, Port St. Mary (03.02.21)
- 6.31 1, Bradda View Grove, Ballakillowey, Rushen (03.02.21)
- 6.32 33, Maghergarran, Port Erin (23.03.21)

6.33 The following properties have made comments on the application after the new submissions were made by the applicants on 22 February 2022:

6.33.1 Pegasus Group (Queens House, Queens Street, Manchester), who had made earlier representations still object to the application on the grounds previously stated (8 March 2022).

6.33.2 The Owners/Occupiers of Tinsleys, Spaldrick, Port Erin, still object to application on previous ground stated. They also state that the amount of money expended on the application should not in any way be construed as a reason to grant approval for such an over intensive and incongruous coastline development (14 March 2022).

6.33.3 The owners/occupiers of Ballafesson Farmhouse, Qualtrough's Lane, Ballafesson, Rushen still object to the application as the amendments have not addressed the concerns expressed in their previous representation (15 March 2022).

6.33.4 The owners/occupiers of Lhie Ny Greiney, Surby Road, Surby, Port Erin acknowledge the proposed reduction in height of block A. However, they still maintain their earlier objection to the scheme (10 March 2022).

6.33.5 The owners/occupiers of Soalt, Balnahowe Farm Cottages, Balnahow, Santon, support the scheme on the following grounds (24 February 2022):

- o The development would enhance the site which currently is an eyesore and potential hazard to health and safety.
- o The development would create a positive impression for the area.
- o The development would provide additional housing for the Island.
- o The development is sympathetic to the surroundings and the moderns design would have a lasting impact on the area.

6.34 Of the twenty (20) commentators on the scheme eleven (11) indicated support for the scheme, while nine (9) objected to the scheme.

7.0 ASSESSMENT

7.1 The issues in this case are as follows:

- i. Principle of the development and mix of uses (Area Plan for the South development brief, SP 6 & 9, BPS 1, 9 & 10, GP2A, SPP2, & EP43)
- ii. Visual Impact/Design (GP 2B, STP 3, 5 & 8, EP 42)
- iii. Impact on Adjacent Conservation Area (EP 36)
- iv. Impact on Ecology (Area Plan Development Brief, EP's 4, 5, 7, & 24, & GP 4)
- v. Impact on landscape (Landscape Proposal 10, SP3, SP4, SP5 & EP 42)
- vi. Impact on the public footpath (Area Plan Development Brief and RP5)
- vii. Impact on highway safety (Area Plan Development Brief, General Policy 2h & I, TP's 1, 2, 4, 6, & 7, & SP 10)
- viii. Levels of amenity (HP17, STP 1B, GP2h, & RP 3)
- ix. Affordable housing (HP5)
- x. Public open space (RP 3 & 4, & Appendix 6).
- xi. Energy Use (GP2n & ENP5)
- xii. Water Consumption/Management (IP5)
- xiii. Fire Safety (CP10 & 11)
- xiv. Designing Out Crime (CP7 & GP2m)

- xv. Flooding (EP 13 & GP 2L)
- xvi. Issue with Rock Fall from the Cliff Face (GP2m)
- xvii. Other Matters

7.2 PRINCIPLE OF THE DEVELOPMENT AND MIX OF USES (SP 6 & 9, BPS 1, 9 & 10, AREA PLAN DEVELOPMENT BRIEF, GP2A, SPP2, & EP43)

7.2.1 The Development Brief indicates that the site is suitable for a range of uses including marine-based tourist/leisure uses (including associated accommodation), which may also include a residential element in the form of associated accommodation. The proposed uses are not exactly in line with these as it is dominated by residential accommodation, and the marine-based element only relates to the use of the exhibition space which would accommodate various displays and tourism-centred information based upon tourist events carried out at various times of the year on the Island, such as; major motor racing events on the Island, maritime events which may include observing basking sharks which are likely to appear at the Bay, tourism-based displays which would be displayed by the Manx Wildlife Trust or others bodies, and local heritage or exhibitions by local artists or craft displays; uses which would be difficult to define as marine-based tourist/leisure uses as they involve a broad range of activities. Whilst these are not particularly focused on marine based tourism, the space would be used to promote some element of marine-based tourism and other forms of ecology focused tourism which is relevant to the island.

7.2.2 The contributions of the Aparthotel element to the tourism mix within the development is also essential in ascertaining the acceptability of the level of mix when comparing the proportion of the tourist use with the number of residential apartments and commercial spaces. With the development incorporating 14 Aparthotel units which from their design appear to be high quality units, there contribution is considered to be significant in meeting the islands tourism targets, as additional tourism units would be located in Port Erin where such units are limited in supply. It is also considered noteworthy that the DoFE (Tourism Division) officers consider that the creation of the Aparthotel accommodation in Port Erin somewhat aligns with the findings of the 2016 Isle of Man Hotel Futures Study. Whilst the study only references scope for Aparthotel development in Douglas to meet corporate demand for this type of accommodation in the capital (as indicated by the DoFE Tourism Officers), it does also indicate that Aparhotels are becoming increasingly popular with leisure markets, which is more likely to be the opportunity in Port Erin. The Aparthotel units would also serve as some form of economic benefit to the development as it would generate tourism revenue for the developers and Port Erin. As such, it is considered the Aparthotel units, and the provision of exhibition spaces would to some extent satisfy the requirements of part 1 of Development Brief 22 of the Area Plan for the South.

7.2.3 It is also considered that approval in principle was granted under PA 19/00373/A for a development (though indicative) which showed and described 86 apartments including 14 Aparthotel units. As such, this scheme includes a reduced ratio and number of residential uses compared to the maximum that were previously considered acceptable (from 86 to 66 - 23% reduction). There has been no change of circumstance or policy since that decision so it is considered that the two commercial units, the large exhibition space (measuring 427sqm and capable of hosting a range of tourism events) and the 52 apartments and 14 Aparthotel units could constitute an acceptable range of mix uses here.

7.2.4 Likewise, the provision of eating and drinking facilities will complement the existing facilities around this part of Port Erin, and provide more opportunities for those already visiting the village to have refreshments, and explore the landscaped open spaces here, whilst enjoying the coastal views offered; factors which could be considered as being complimentary to the tourism uses within the site and locality.

7.2.5 In evaluating the retail (commercial) elements of the scheme, it is noted that whilst there could be concern that the location, outwith the centre of the village is not appropriate for retail, given BPs 9 and 10 and SP 9, the location is mostly within the settlement boundary, and the two retail units and the restaurant shown on the plans are less than the area which would necessitate a Retail Impact Assessment either individually or cumulatively. Moreover, the provision of retail opportunities alongside the restaurant is considered to be complementary in this case in an area where visitors already congregate despite the lack of facilities. The development brief clearly includes uses which are designed to attract visitors to the site and the retail units would support this.

7.2.6 Another factor that bodes well for the scheme in terms of acceptability of the principle is the fact that the scheme will facilitate the regeneration and the re-use of this derelict and redundant site, which could otherwise fall into increased disrepair; a situation which could further impede the redevelopment of the site in the future due to increased cost of restoration. Thus, the need to encourage the redevelopment of this run-down urban site situated in a prominent location serves to favour the proposed scheme and aligns with Spatial Policy 2 and Environment Policy 43.

7.2.7 Overall, taking account of the planning policies, the planning history and the particular circumstances of the site and proposal, it is considered that although the proposal does not comply fully with the site Development Brief, the proposed uses (and mix of uses) are acceptable in principle. This is however not an automatic reason to allow development as further material planning matters as indicated previously need to be considered, to determine if the proposal would be appropriate for the site, considering the approval in principle only required that the principle of the development be assessed with other matters reserved.

7.3 VISUAL IMPACT/DESIGN (GP 2B, STRATEGIC POLICIES 3B, 5 & 8, EP42)

7.3.1 With regard to the visual impacts of the proposed scheme, it would be vital to consider the requirements of Strategic Policy 5 that 'New development, including individual buildings, should be designed so as to make a positive contribution to the environment of the Island' and General Policy 2 paragraph (b) which requires that new development should 'respect the site and surroundings in terms of the siting, layout, scale, form, design and landscaping of buildings and the spaces around them'.

7.3.2 The main public view would likely be from the lands that surround the bay which includes views from the Bradda Head and the surrounding developments, the properties along Spaldrick, the Promenade, Shore Road, and Breakwater Road.

7.3.2 When the proposed buildings are viewed from the surrounding area; particularly from the Promenade, Spaldrick, and Bradda Head, they will be prominent features in this location, given their siting, scale, design, finish which would make them obvious. These buildings would completely dominate the views towards the cliffs, given their height and width which would completely cover the cliffs (beside Block A which is set lower than the cliffs behind), when viewed from Breakwater Road or approaching the Port Erin Bay from the sea. From the immediate streetscene along Breakwater Road which is the highway access to the site, the two blocks of apartments which front the eastern boundary of the site (Block D and C) will be the most prominent buildings, with the other two blocks (A and B) further into the site area screened by the existing cliff projections and the orientation of these buildings which leans away towards the southwest direction.

7.3.3 The applicants have produced a photomontage of how the buildings would appear from distant views, which is useful to gain a good understanding of how it would site/appear. From reviewing these plans, it is evident that the proposal will clearly increase the amount of built development on the site, with buildings considerably taller than the existing properties within

the entire area. Also evident in the photomontage provided is the fact that the new buildings would fill up the entire land area and project beyond the limits of the existing development on the site. It is acknowledged that recent changes, to address concerns raised by the Ecology team, have resulted in an amendment to Block A and that the scheme has gone through significant changes from its originally conceived scheme which was to take cue from the lie of the land. Recent revisions have also simplified the design and omitted some of the features; such as its slanted roof finish (which mirrored the cliff slant) and use of wall breaks in the form of balconies and wall projections which served to eliminate bland extensive walls of glass which are common features of budget developments in many coastal communities in Europe.

7.3.4 Whilst it is noted that the entire bay front is characterised by a mixture of various types, sizes, styles and designs of properties lining the major highways, with the new hotel and apartment buildings which offer dominant views when viewed from distant perspectives, dominating the streetscene, it is noted that the character appraisal for the proposed conservation area considers a number of the modern additions which the new development bears a resemblance to (such as the new building located between Erin Court and the Ocean Castle Hotel, and that replacing the Bay View Hotel), as buildings which should not be replicated in the area. In fact the character appraisal states that 'only planning applications which emulate the design of positive buildings should be approved'. The massing of some of the proposed buildings would also be greater than the existing properties in the area, with the proposed number of floors considerably higher than all the buildings in the area as the tallest buildings in the area (such as the Imperial Hotel development, Ocean Castle Hotel, and Former Port Erin Royal Hotel) have only six floors.

7.3.5 On balance, it is considered that the proportion, form, design and finish of the proposed buildings would be unmatched when compared with the buildings in the locality as they would dominate the views and be intrusive when viewed from various vantage points along the bay and headlands. The design also does not take cue from the character of the surrounding landscape which it is expected to be seamlessly integrated, and offers a form of development that could be erected anywhere. Thus, the development would fail to align with General Policy 2(b & g), Strategic Policies 3(b), 5 and 8, and Environment Policy 42 of the Isle of Man Strategic Plan 2016.

7.4 IMPACT ON ADJACENT CONSERVATION AREA (EP36)

7.4.1 The Department has a duty to determine whether development proposals outside, but close to the boundary of Conservation Areas will not detrimentally affect important views into and out of the Conservation Area (EP36). With this in mind it is very relevant to evaluate the key views into and out of the Proposed Conservation Area to ascertain if there would be any detrimental impacts from this scheme which is a modern introduction to the streetscape when views from key views from Bradda Head and other vantage points within and around the Proposed Port Erin Conservation Area. A key guide in this regard is the Character Appraisal which highlights key views and other elements that do no good in promoting the character of the area.

7.4.2 From reviewing the character appraisal, it is noted that the site is situated within close proximity to the Old Lifeboat Station and the Herdman Institute, Shore Road, which are considered to be historic buildings of importance to the village and within the Proposed Conservation Area. The fact that the new buildings would also be similar in scale, proportion and appearance to some of the new buildings adjacent the Conservation area (along the promenade) is also a key consideration. It is also vital to note that the Character Appraisal recommends that only planning applications which emulate the design of positive buildings should be approved. This document further recommends that any proposals for the alteration or replacement of negative buildings should only be allowed where they are designed in a fashion that is more sympathetic to the area. Whilst the proposed development would not

fully align with these recommendations considering the new buildings will be similar to the new building located between Erin Court and the Ocean Castle Hotel, and that replacing the Bay View Hotel along the Promenade which are considered to be inconsistent with the historic appearance of the Promenade, the Character Appraisal clearly stipulates that "this guidance is particularly relevant for the Promenade, where there is an original building line, clearly visible from a large proportion of the village which is important to maintain". As such, it is considered that although the proposed development would serve as a modern addition to the views attainable along the bay, its design and appearance, although at variance with the dominant appearance of the area would not be sufficient to warrant refusal of the scheme. Besides, the modern appearance of the building cannot be judged to be detrimental, given the detached nature of the site from the nearby conservation area, due to the separating distance between the building and the nearest property in the Conservation area and the orientation of the headland presents an oblique view from the Proposed Conservation Area when approaching from Breakwater Road. The development would, accordingly, not affect adversely the character or quality of the setting of the adjacent Conservation Area, although it is accepted that distant views of the proposed buildings would still be achievable from the northern edge of the Proposed Conservation Area at Carlton Apartments Spaldrick, as would views from Bradda Head on the opposite headland.

7.4.5 Overall, for these reasons it is considered the proposal would not result in adverse impacts upon views into and out of the adjacent Proposed Conservation Area, and as such would broadly comply with EP36.

7.5 IMPACT ON ECOLOGY (AREA PLAN DEVELOPMENT BRIEF, STP4, GP2, EPS 4, 5, 7 & 24, & GP 4)

7.5.1 In ascertaining the impacts of the development on ecology on and around the site, it is considered that the application proposes to build close to the cliffs and within close proximity to the marine nature reserve (MNR) which includes a significant part of the surrounding bay and water body. These works would result in impacts on elements of the ecology which have clear mitigation, as well as impacts on red-list species for which there are no clear mitigation, and these impacts are termed to be significant.

7.5.2 Environment Policy 4 stipulates that developments which would adversely affect species and habitats of international importance, species and habitats of national importance, and species and habitats of local importance would not be permitted. Within this policy, there are no allowances for provisions set for allowing developments with detrimental impacts and emphasis is placed on obtaining specific advice from the relevant professionals within the Department if proposals are brought forward. In this case, the advice provided by the Ecosystem Policy Team clearly indicates the mitigation offered via the reduction in height of building A regarding Fulmars, a red list specie nesting at the application site (particularly at the rear of the proposed Building A) are acceptable, although the success of the approach is uncertain. As such, they have asked that conditions be imposed to ensure that a fulmar monitoring and mitigation strategy, during and post construction, to assess the potential impact of the development on fulmar at this site forms part of the approval. Therefore, a condition would be imposed to ensure that this is integral to the development should approval be granted. Given that their advice is of prominence here, as has been advocated by EP4, with the suggested mitigation considered to offer a means to minimise disturbance, it is considered that this element of the scheme would comply with the requirements of EP5.

7.5.3 Similarly, it has been identified that the scheme would impact on Herring Gulls which are also considered Isle of Man and UK red list species of highest conservation concern. In assessing impacts on the Herring Gulls, it is considered that these nest on the cliffs, the former marine biological station building, and cliff top of the grassland above the cliffs, with the proposed development possessing the potential to impact on these birds. Albeit, given that there are

proven mitigation approaches, in addition to Herring Gulls being easier to provide for and accommodate on site, with these being able to nest within close proximity to humans, any impact is not considered significant, although it is acknowledged that there would still be impacts. The ecosystem policy team in considering sustainable approaches to minimizing impacts on these red list species have suggested that appropriate conditions to ensure monitoring of nesting herring gulls during and post construction is required, to assess the impact of the development on these birds, and to secure further mitigation/compensation/remediation measures should the monitoring show negative impacts on nesting gull populations. As such, it is considered that any impacts on gulls (although a red list specie) could be sustainably mitigated; thus any impacts in this case would not be sufficient to warrant refusal of the scheme. Consequently, this aspect of the development would comply with Environment Policy 5.

7.5.4 Concern has also be raised regarding possible impacts of rock fall at the site on potential mitigation measures for protected birds on the site, particularly Fulmars which nest in the cliffs (with limited approaches for mitigation). As such, given that the most appropriate mitigation measure would be to net the cliffs if rock fall is identified to be a concern; the objection raised by the Ecosystem Policy Team regarding future netting being unacceptable here holds significant weight. As a result, any mitigation measures proposed here to limit impacts of rock fall on the scheme would exclude netting of the cliffs; should rock fall be identified to be a major concern after further assessments have been carried out. This would be secured with a condition should approval be granted for the scheme.

7.5.5 With regard to other important species on the site (particularly the nesting birds - robin, wren, rock pipits, jackdaws and linnet), it is considered that the removal of the existing buildings on site would impact on their habitats and breeding patterns, given that these would be dislodged from their established habitats on the site. This concern is, however, manageable considering appropriate mitigation can be taken when removing the buildings or during construction to ensure that the development does not result in negative impacts on these components of the environment, such as when the birds are less active or when they will be most visible and able to relocate themselves. As well, provision would be made in/on the new buildings and other areas on the site for new nesting areas through the installation of nest boxes or 'bird bricks', ledges and other bird habitats to ensure that the affected birds are not completely dislodged from the site as a result of the development. These measures could be secured with conditions, making them integral to decisions on the current application. Therefore, it is not considered that the dislodging of these bird species which form a core part of the site ecology would warrant refusal of the scheme given that appropriate measures could be taken to guarantee their continued existence on the site, along with the new buildings. Based on the foregoing, it is not considered that the development would not cause or lead to unacceptable environmental disturbance and would comply with Strategic Policy 4 in this regard and Environment Policy 5.

7.5.6 In terms of orchids, the survey undertaken by the applicant reveals that the cliff is a key terrestrial habitat and specifically an area of acid grassland containing orchids (protected under the Wildlife Act). There would, however, be limited impacts from the proposed development on these habitats considering the proposed works would be set below the cliffs. Besides, the applicants have indicated that the area between the cliff and the rooftop gardens will be cultivated as coastal acid grassland to encourage orchids which are found locally. Whilst any impacts here would be limited, the Preliminary Ecological Appraisal (October 2020) submitted by the applicants had recommended that a Method Statements to demonstrate how site operations will not adversely impact the orchid population be submitted. As such, a condition should be attached which require that the method statement be provided prior to commencement of any works on site.

7.5.7 In terms of impacts on the adjacent MNR, it is important to note here that Paragraph 7.8.6 of the Strategic Plan sets out further criteria for granting permissions to development which would affect any proposed or other recognised site of conservation value, including areas of ecological interest by stipulating that such proposals will only be permitted where it has been demonstrated that:

- o the proposed development will not compromise the conservation objectives of the site or unacceptably harm its conservation value and its overall integrity;
- o there is proven public interest where safety or exceptional social or economic considerations outweigh the ecological importance of the site; and
- o the need for the development cannot be met in other less ecologically damaging locations or by reasonable alternative means.

7.5.8 The comments from the Ecosystem Policy Team highlight the lack of information with regard to the potential impacts on the Marine Nature Reserve (MNR), in terms of impacts during construction and long-term impacts post construction given the proximity of the proposed high density dwellings without sufficient buffer between the application site and the MNR. The non-resolution of the issues related to the MNR are clearly articulated in their most recent consultation (dated 18 March 2022) which states that the proposed drainage proposal would not achieve a nil input from the site to the adjacent MNR, and as such is unacceptable, as this could result in harmful pollutants, such as foul water, PAHs (from car parks) nutrients, pesticides and microbiological contaminants, entering and negatively impacting the protected marine environment. They have, however, requested that an updated drainage proposals which would ensure that there is a nil impact to the MNR from foul water, storm water and surface water is provided. As such, this would be secured via a planning condition should approval be granted.

7.5.9 Other matters related to the monitoring of the adjacent MNR which has been suggested by the Ecosystem Policy Team to be included as an approval condition would fall outside the remit of the current planning application, as there has not been identified any ecological baselines which the proposed scheme would alter and which needs to be protected via a monitoring condition. Whilst it would have been more appropriate for an initial assessment to be carried out to ascertain potential impacts on the adjacent MNR at the onset of the application, no issues or protected attributes have been particularly identified for which an initial survey would be required and for which subsequent monitoring would be essential. Given that the conservation objectives of the site which may be compromised by the proposed development has not been identified as required by the preceding texts to Environment Policy 4 (Paragraph 7.8.6) which supports the policy, it would be difficult to argue that a monitoring condition be imposed to assess attributes that have not been identified. These, however, would easily be achieved via the applications of the conservation legislation on the Island, such as the Wildlife Act 1990.

7.5.10 Based on the foregoing, it is considered that the matters related to the ecology of the site, such as impacts on fulmars, herring gulls, wild birds, orchids and other fauna on the site are considered to be acceptable provided they are protected or certain actions are implemented via conditions or section 13 agreements. The success of some of these mitigation measures are, however, unascertain, particularly those that relate to Fulmars at the site and would be further assessed after implementation and monitoring on the site, should approval be granted. Therefore, the development is considered to broadly comply with Environment Policy 5 of the Strategic Plan.

7.6 IMPACT ON LANDSCAPE (LANDSCAPE PROPOSAL 10 & DEVELOPMENT BRIEF 22 (APS), SP4 & EP 42)

7.6.1 With regard to the impacts on the landscape, it is noted that Landscape Proposal 10 favours limited development on the site to ensure that development of the site does not adversely affect the largely unspoilt character and appearance of the Peninsula. Landscape Proposal 10 also requires that new development should not diminish the role of the peninsula in

providing a vegetative, undeveloped backdrop to Port Erin; conditions which the proposed development would not comply with as the scheme would have a significant developed footprint which cannot be termed as being limited.

7.6.2 Part 4 of Development brief 22 also requires that the design of new buildings and the treatment of the spaces between them should reflect the conspicuous nature of the site as viewed from across the bay. Granting attempts have been made to reduce the height of the buildings to enable it fit with the undulation of the cliff face, three of the buildings (B, C and D) would still rise higher than the cliff face such that they would obstruct the views to the cliff when viewed from the bay, the Promenade and adjacent headland (Bradda Head), making the development form the dominant views here; thus appearing obtrusive on the landscape. Equally, the spaces between the buildings are also compact with the gaps comprising 3.1m between Block B and D, 8.6m between block B and C, and about 13.4m between block A and B where the largest gap exists; and as such would screen views to these high and dramatic sea cliffs (that forms part of the Meayll Peninsula), which the Landscape Character Assessment classifies as landscape to be protected. These factors would cause the proposed development to dominate the views over this picturesque coastal landscape when viewed from the surrounding area failing the landscape requirements of Development Brief 22 as contained in Part 4 of the brief. It is also vital to note that the current changes to the design would further depart from the undulation of the land which was initially indicated by the applicants in their submissions regarding the design that the buildings would follow the lie of the cliff behind.

7.6.3 Strategic Policy 4 and Environment Policy 42 would also be vital in determining the acceptability of any impacts on the landscape here, particularly parts (b) of SP4, and the preceding texts within paragraph 4.3.11. The key thrust of these policies and texts border on developments taking into account the landscape context and the impact on the amenities of the area in which they are sited. When the scheme is assessed against these texts, it is considered that the scale and size of the proposed development would make it difficult for the scheme to be seamlessly integrated into the surrounding landscape context.

7.6.4 It should be noted here that the importance of the cliffs and surrounding landscape is hinged on the visual values placed by those that enjoy the scenic beauty of the area when they visit the area or through observations across the bay from Bradda Head, or from the Promenade. From assessing the submitted documents (particularly the section drawings), visiting the area and assessing comments made by people who use the area, the key issue lies in the fact that the development would change the appearance of the landscape at such a scale that it would be difficult to relate it to the current appearance of the area where the cliffs and fields above form the dominant views over the existing buildings on site.

7.6.5 Also vital in this regard is the magnitude of the change which would have long term effects (resulting in permanent changes to the views). Besides, it is not considered that the surrounding landscape would be able to accommodate the proposed development without undue consequences in terms of losing the visual character of the area which comprises high cliffs and green fields above. In fact, the visual appearance of the site will change considerably and become more formal and managed, which would differ substantially from the current state which is predominantly natural with some built form situated at the base of the cliffs.

7.6.6 Granting the Officer for the approval in principle noted that the application clearly indicated that the proposed development would comprise buildings which would be substantially larger and different to what currently exists on site - buildings up to six storeys, it would be vital to note that the lowest of the buildings currently proposed is four storeys (which is taller than the maximum height of the existing buildings on site); with new submissions, such as the photomontage, section drawings, and elevation drawings, which were not provided as part of the approval in principle clearly indicating that the current scale of the development would have significant adverse impacts on the landscape. It is also vital to note here that the scheme as

proposed would not have 'a backdrop of cliff and headland behind it' (as initially considered in the Officer report for PA 19/00373/A), given that the new buildings would completely screen the cliff and headland behind, with only Block A offering views of the cliff and headland above its roof.

7.6.7 On balance, whilst it is noted that there are limitations within the Area Plan which makes it difficult to specifically define what 'limited development' for the site entails (as there are no provisions within the development brief which prescribe a maximum height or size of buildings), it would be difficult to argue that the proposed development constitutes limited development. In fact, it could be argued that the recommendation within Part 2 of Development Brief 22 that "Development should preferably make use of all existing buildings on the site, including the re-use of the original Marine Laboratory Building" is a clear indication of the type of development scale sought by the development brief. It is, therefore, concluded that the development would be contrary to Strategic Policy 4, Environment Policy 42, General Policy 2b and paragraph 7.4.1 of the Strategic Plan, Landscape proposal 10 and Development Brief 22 of the Area Plan for the South.

7.7 IMPACT ON PUBLIC FOOTPATH (AREA PLAN DEVELOPMENT BRIEF AND RP5)

7.7.1 In assessing the impacts of the development on the footpaths to the rear of the proposed buildings and over the cliff, it is considered that the public footpath is already impacted upon by the existing buildings: the general character of the footpath is of a confined and steep first section where the existing buildings dominate the view, particularly the view of the rear of the buildings which is not particularly attractive. Whilst it is noted that the new buildings would be set higher than the top of the cliffs (with only block A set lower than the top of the cliffs), these buildings will offer more interesting and attractive views when viewed from the footpath, given that the view to the rear of the buildings would be over landscaped gardens which would be more in keeping with the fields that line the footpath above. Besides, the principal character of the path and most of its quality comes higher up where expansive views are available towards Bradda Head and south towards the Calf of Man. Granting views towards the bay would be affected by some of the new buildings, the much greater majority of the view will still be available for a considerable part of the upper sections of the path.

7.7.2 It should be noted here that the height of the proposed buildings was a key concern given that they would to a certain extent dominate views from the footpath. This was, however, discussed with the applicants who have now reduced the height of the buildings to be set considerably lower than initially proposed. Whilst the reduction in height has not completely diminished the impacts on views from the footpath, the reduction in the height of building A (to be set considerably lower than the cliff face) has increased the range of views from the footpath towards the bay. As such, the reduced height of building A would serve to diminish observed impacts of the development on the abutting public footpath to the rear.

7.7.3 Another factor that bodes well for the scheme in this regard is the fact that the development would not in any way alter the course of this footpath which skirts behind the site rising from the gap west of the existing substation (which connect the footpath with Breakwater Road), running a little way from the edge of the cliffs and then climbs steeply up to the west of the site, giving clear views towards Bradda Head and Milner's Tower, uninterrupted by the proposed buildings. In fact, a new path has been added to the eastern end by the steps and through a landscaped garden which would offer an alternative unhindered access to Breakwater Road (via pleasant grounds). As such, it is not considered that the proposal will impact on the character and enjoyment of the footpath to such an extent as to warrant refusal of the scheme.

7.7.4 Overall, it is not considered that the proposal will impact the character and enjoyment of the footpath to such an extent as to warrant refusal of the scheme. Thus, it is considered that

the scheme would comply with Development Brief 22 of the Area Plan for the South and Recreation Policy 5 of the Strategic Plan.

7.8 LEVELS OF AMENITY (HP17, STP 1B, GP2 H, & RP 3)

7.8.1 With regard to the amenity space provisions, it is clear that the buildings as proposed would mostly have available a principal view to the north across the bay to Bradda Head, with the rear view towards the natural cliff positioned between 14-16m to the south offering outlooks over landscaped gardens. As well, the apartments are designed with adequate amount of space within each apartment suitable for the number of occupants specified. Additionally, each apartment would be self-contained and large enough to accommodate a lounge, kitchen, toilets and bedrooms to support each unit.

7.8.2 There are limited external communal areas for the apartments on each level, although the roof gardens and raised terraces which are restricted to some levels provide some communal areas. All clothes drying and storage will, therefore, have to be provided within the building, which is not uncommon for apartment developments. As well, there is ease of level access to the available public open spaces that would provide a degree of respite from the activity in the area, offered by the beach and other leisure areas around the bay. Additionally, the bin storage provision which has been integrated within the development would be accessible for use by all of the apartments.

7.8.3 The external amenity spaces that would be provided at the rear of the buildings (landscaped roof gardens and terrace) would be in shade most parts of the day due to the shadow cast by the cliff to the south and buildings to the north, beside the times when the sun would be directly overhead at mid-day. During a recent site visit on 25 September 2021, it was noted that the rear of the existing buildings, which are significantly lower than those proposed here create a considerably high level of shading to the rear of the buildings, along with the adjacent cliff. It is also noted that the amenity enjoyed within the proposed landscaped gardens may be impacted by the birds using the cliffs (if they stay), whose droppings constantly fall on the grounds below (which would be occupied by the proposed landscaped gardens). Rock fall could also pose a safety hazard to those using the proposed gardens at the rear of the buildings (This issue has been discussed in detail within section 7.17 of this report). The recent suggestion by the applicants in their correspondence dated 16 March 2022 that they would be willing to fence off a 3m section of the landscaped gardens/ roof terrace should rock fall become a challenge would significantly reduce the area of amenity space available to future occupants. It is, however, worth noting that the proximity of the beach and other public spaces around the beach within close proximity to the proposed development may serve to some extent to ameliorate these gaps in the standard of external amenity space provisions.

7.8.4 It is, therefore, considered that the internal amenity space provided as part of this application is of an acceptable standard. There are some concerns with the practicality/usability of the external spaces which weighs against the application but is not in isolation ground for refusal. Thus, the development would broadly comply with Housing Policy 17, Strategic Policy 1(b), and General Policy 2 (h) in terms of the adequacy of amenity provisions.

7.8.3 The adequacy of car parking will be assessed in section 7.11 of this report.

7.9 AFFORDABLE HOUSING (HP5)

7.9.1 Housing Policy 5 of the Strategic Plan states that "In granting planning permission on land zoned for residential development or in predominantly residential areas the Department will normally require that 25% of provision should be made up of affordable housing. This policy will apply to developments of 8 dwellings or more." There is generally the requirement that 25% of provision should be made up of affordable housing to developments of 8 dwellings or more. In this case, and like the application before it (19/00373/A), the proposal makes no provision for affordable housing. Housing Policy 5 states that this will be required "on land zoned for

residential development or in predominantly residential areas". The site is neither of these things. In seeking approval for a predominantly residential development on a site where the approved land use is not predominantly residential, the applicant is suggesting that the site is suitable for residential development. As such there is an argument that affordable housing should be sought.

7.9.2 The issues to consider here is:

- o Firstly, whether the site of this application is within land zoned for residential development or in a predominantly residential area;
- o Secondly, if it is not, is it reasonable to expect provision of affordable housing; and
- o Thirdly, if it is reasonable, and none is provided should the application be refused?

7.9.3 Map 7 of the Area Plan for the South defines the land zoned for residential development. It is clear that the site of this application is not so zoned for residential development, being specifically allocated for Mixed Use as Site 22 on page 59 of the Plan. Equally, the site is not within a predominantly residential area being separated by nearly half of a kilometre from the nearest residential area.

7.9.4 The applicants have provided a legal opinion which states the following:

"It is therefore clear that the Site is intended for a mix of uses. In my opinion, that does not make it "land identified for housing purposes". Moreover, the wording of the allocation makes clear that the land is plainly identified for primarily marine based tourist/ leisure uses, with the possibility of housing being allowed. That certainly does not make it "land identified for housing purposes." That interpretation, that it is not land identified for housing, would also be wholly consistent with the fact the wording of Housing Policy 5 itself requires the land to be zoned for residential development. It is clear to me that the allocation is far removed from that."

7.9.5 The Officer's report on the AIP (PA 19/00373/A) while coming to same conclusion argues differently:

"The site is an unusual one in that there is significant public gain in the redevelopment of the site and there is a requirement for the site to include not simply housing but other, potentially less profitable or economically viable uses, which, distinguishes this from most other cases where affordable housing should be required. The applicant has also had limited access to the site prior to purchase which has made accurate build and demolition cost estimates less certain although some of the costs given by the applicant could have been foreseen and taken into account in the offer given to purchase the site. As a result of the discussions with Highway Services, there are improvements to the public highway to be undertaken to facilitate the development, which would not have been known to the applicant at the time of agreement to purchase. The applicant also has to give a 20% contribution of any profits derived back to Government - in this case through the same Department which administers the delivery of affordable housing through the House Purchase Assistance Scheme and some public sector housing. Given the benefits of the development (see 7.1) and some of the factors listed in 6.9 above, it is not considered appropriate to refuse the application for lack of provision for affordable housing in this case."

7.9.6 The applicants also argue that since the above consideration, the scheme has evolved to fit in with more stringent detailed design and revised Residential Design Guide requirements in relation to climate change. The number of residential units has been reduced by 30% compared to the maximum allowed for by the Approval in Principle (The details from submitted plans show that the number of units would actually be 23% less than shown on application for approval in principle and not 30%), while costs per unit are claimed to have increased, with the total costs being shared over a smaller quantum of development.

7.9.7 Given that Housing Policy 5 requires a contribution for affordable housing provision on housing sites, it would seem strange to argue that because a proposal was a departure from the plan in relation to one policy, it should then not have to comply with any other policies. Indeed, it could be argued that going above and beyond the requirements of the other policies would be prudent to justify the non-compliance. In this case, the proposal does not comply with the Development Brief, and as such a strict application of policies would result in a refusal. However, other material considerations are identified which would mean that this is not in itself grounds for refusal.

7.9.8 Failure to provide affordable housing weighs against the application however, given the benefits of the development and the factors which have been discussed above; it is not considered to be a reason for refusal in isolation.

7.10 PUBLIC OPEN SPACE (RP's 3 & 4, STP 1b, & APPENDIX 6)

7.10.1 As the development proposes more than 10 residential units (i.e. 58 apartments), Public Open Space provision is required by Recreation Policy 3. In the case of this application, the development proposes some level of public open space within the site area (574.6sqm), some off-site open space provisions on leased land directly opposite the site (3339.6sqm), with some commuted sums provided under a section 13 Agreement, which would be paid to the Local Authority as a contribution towards the provision of community recreational open space within close proximity to the development to make up for the non-provision of children's play area on the site. The applicants have agreed a figure of £20,000 with the Port Erin Commissioners which would be paid in lieu of children's play area provision on the site. These provisions for children's play area are acceptable given the application site is close to and within a short walking distance to a number of open spaces provision i.e. the beach, headlands, brooghs, public footpaths, and the golf course, although it is not clear if children's play space will be provided within suitable distance of the development.

7.10.2 Whilst it could be argued that the provisions for public open space for the development exceeds the requirement in terms of quantities provided (3914.2sqm), it should be noted here that the proposed approach does not comply with the requirements of the Strategic Plan for provision of offsite POS provisions. This assertion is hinged on the fact that the leased Public Open spaces that have been included as part of the POS (which form the bulk of the provision - 3339.6sqm) are not new provisions but already existing public open spaces by the site which would only be changed through the addition of the artwork and creation of the footpath connections, which is not significantly improved over the existing, besides the collective management as the other public spaces within the site, and as such cannot be judged as new POS provisions.

7.10.3 The issue, therefore, arises as to how much weight can be given to these offsite POS in terms of meeting the required POS provisions given that they already exist as public open spaces available to the public. It would also be difficult to argue that the inclusion of art work and extension of a footpath by a few meters would be considered to be sufficient improvement over these public open spaces which cannot be assessed as being in poor form. As such, whilst the applicants would argue that this arrangement (with the leased open spaces) meets the provision for public open space provision, the reality is that this element of the scheme only annexes existing public open spaces and would not be considered to add to the volume of POS available in Port Erin. In fact, the acceptable option would have been to provide a monetary figure in lieu of POS provisions not adequately provided within the site, as with the children's play area, considering only a small proportion of new POS provision (574.6sqm) has been effectively delivered by the current scheme, and this would fall short of the required 2520sqm of public open space required by the development. This implies that the applicant would have provided a sum in lieu of the shortfall of 1945.6sqm of POS that should have been provided by the development (that is 77.2 percent of the cost of provision elsewhere).

7.10.4 The extract from Appendix 6 of the Strategic Plan below provides the required guidance in this regard and clearly highlights the deficiencies with the approach to POS provision within the current scheme:

"A.6.7 The cost of providing the public open space will be calculated as a percentage figure of the overall cost of providing open space within the development. For example, where no public open space is being provided on site that would be required by the standards, the developer will be required to provide 100% of the cost of the provision elsewhere. Where the off-site provision is addressing a shortfall in the overall provision on site, in that areas of open space are to be included within the development, but the full requirement of the standards cannot be accommodated, the applicant will be required to provide the remaining percentage cost. The payment of commuted sums will be the subject of legal agreements under Section 13 of the 1999 Act".

7.10.5 As such, it is noted that whilst the provision of children's play area would meet the requirements of the Strategic Plan, it is not considered that the approach to offsite public open space provision meets the requirements of Appendix 6 of the Strategic Plan which defines the approach to open space provisions for new residential developments, Recreation Policy 3, Strategic Policy 1 (b) of the Strategic Plan.

7.10.6 Based on the foregoing, it is considered that the development does make some contribution to open space, but does not fully comply with the policy requirement in that some of the areas being provided are already available and it is not clear how/if children's play space will be provided within suitable distance of the development. This is considered to weigh against the application but is not in isolation a reason for refusal.

7.11 IMPACT ON HIGHWAY SAFETY (AREA PLAN DEVELOPMENT BRIEF, GP 2h& i, TP's 1, 2, 4, 6, & 7, & SP 10)

7.11.1 With regard to highway impacts, the comments from Highways services are heavily relied upon and in this instance, DOI Highways advise that the development does not raise any significant highway safety or network functionality issues, allowing Highways DC to continue to not oppose this proposal subject to conditions to cover the accesses, internal circulation and bicycle and car parking arrangements set out on the submitted details. They further advise that if appropriate, off-site works should be conditioned as part of approval granted, since the offsite works would be integral to minimising the scope for conflicts between pedestrians, cyclists and vehicle drivers, avoid street clutter and respond to current guidance, in addition to providing suitable access for emergency and service vehicles, practical delivery and collection of goods and services, as well as waste collection.

7.11.2 It is also considered that the proposed parking provisions would be sufficient for the elements of the proposed development which includes, residential use, tourist use (Aparthotel) and commercial use of the site. With regard to the 58 residential units, it is considered that the parking spaces provided for residential use would be more than sufficient as it would meet the parking requirements of the IOM strategic Plan which stipulates car parking standard of one space per one bedroom apartment and two spaces for the two or more bedroomed apartments. This implies that 112 parking spaces would be required for the 56 two and three bedroom apartments (31 two bedroom and 25 three bedroom units), while two additional spaces would be provided for the two 1 bedroom units. The 14 parking spaces provided for the Aparthotel units would also meet the Strategic Plan standard of 1 space per guest bedroom for Hotels, motels, guest houses. The balance of 31 parking spaces available on site should be sufficient to meet the parking requirements for the Sui Generis Exhibition facility), the Class 1.1 Shop, and restaurant/pub, considering the facility is located within a reasonable distance of an existing public transport corridor. Besides, the scheme will provide 82 bicycle parking spaces (58 for the

apartments 14 for the aparthotel and 10 for the commercial units) which would serve to diminish any pressures on parking demand for vehicles. The integration of 12 electric vehicle charging spaces, and 11 spaces suitable for use by disabled persons would also ensure that the scheme would also serve to foster the projects inclusivity and support for sustainable travel. Based on the foregoing, it is considered that the parking provisions would meet the requirements of Transport Policy 7 and General Policy 2 (h).

7.11.3 It is also considered that the proposal is unlikely to give rise to significant negative impacts on the adjoining highway network in terms of highway safety or network efficiency with the site traffic being accommodated onto the existing network via Breakwater Road, subject to the off-site works required by DOI Highways to minimise conflicts between pedestrians, cyclists and vehicle drivers and street clutter being implemented. As such, these works would be secured with a condition to ensure that they are implemented prior to the occupation of the development, should approval be granted. Moreover, the existing public footpath which goes through the site would be retained with some improvement along the south-eastern section to facilitate its use by the public.

7.11.4 Granting this element of the development would give rise to some pressures on the surrounding highways, the proposal is considered to significantly accord with highway requirements, and is therefore considered to be compliant with GP2 (h & i), Transport Policies 1, 2, 4, 6, and 7, and Strategic Policy 10.

7.12 ENERGY USE/CONSERVATION (GP2n & ENP5)

7.12.15 requires that schemes of this scale demonstrate the measures that have been taken in the design to reduce energy consumption and increase energy efficiency. This is further reinforced by GP2 (n) which stipulates that new developments be designed having due regard to best practices in reducing energy consumption. In assessing the energy conservation approaches within the scheme, it is considered that the scheme would incorporate high efficiency Air Source Heat Pumps combined with electric boilers for heating and generation of domestic hot water using apartment based heat interface units, improved building envelope with low heat loss, The scheme would also benefit from the use of energy efficient lighting, mechanical ventilation with heat recovery to dwellings, design to maximise natural daylight, and solar gain control measures, as well as the utilisation of energy efficient control systems to ensure systems are only used as required during the building operation, with a dedicated onsite metering system to monitor energy usage and provide valuable feedback to maximise efficiency.

7.12.2 If the proposed measures are implemented as detailed in the supporting information, the energy conservation for the buildings would meet the requirements of ENP5 and GP2 (n). As such, conditions should be attached to ensure that the details submitted are undertaken.

7.12.3 It is, therefore, considered that the proposed energy use and conservation within the scheme meets the requirements of Environment Policy 5 and General Policy 2 (n) of the Strategic Plan.

7.13 WATER CONSUMPTION/MANAGEMENT (INFRASTRUCTURE POLICY 5)

7.13.1 In assessing the compliance of the development to the requirements of Infrastructure Policy 5 which deals with water conservation within developments, it is noted that all the proposed residential units will maximise water efficiency by limiting consumption to 125 litres per day per person. This will be achieved using low consumption sanitary fittings such as dual flush toilets, and low flow bathroom taps / fittings. It would be vital to note that dual flush cisterns allow users to decide whether to flush only a portion of, or all the water from the cistern and as such allows users to limit the use of water within the cisterns when the flush only requires a limited amount of water. The low flow taps on their part allows the units to use flow

rates of about 6 litres per minute which also serves to minimise the quantity of water used for basic domestic requirements.

7.13.2 Whilst the above operations may seem minimal in meeting water conservation requirements, it should be noted that these measures would yield significant conservation benefits considering the scheme would serve a high occupancy level of about 140 people (3 for the 1 bedroom units, 62 for the 2 bedroom units, and 75 for the 3 bedroom units), not counting the other water uses for the Aparthotel units, exhibitions spaces and retail/commercial units.

7.13.3 Based on the foregoing, it is considered that the water conservation measures would meet the requirements of Infrastructure Policy 5.

7.14 FIRE SAFETY (COMMUNITY POLICY 10 & 11)

7.14.1 As outlined within the initial comments by Isle of Man Fire & Rescue Service there were significant concerns in relation to floors with height above 11m being served by a single staircase. Accordingly, the applicants have now revised the plans to address this concern, with the Fire Service considering this to be acceptable and as such, it is considered that the scheme broadly meets the requirements of Community Policy 11.

7.14.2 No objection has been received from the Fire & Rescue Service or Highway Services in relation to access of fire apparatus etc., although this concern was highlighted by the Planning Authority for which additional information in the form of a Traffic Impacts Assessment was sought. This additional information has been reviewed by the DOI Highway Development Control Officer who considers the proposal to be acceptable in this regard. Consequently, it is considered that the proposal would comply with Community Policy 10 & 11.

7.14.3 There are, however, outstanding issues with the design of the internal layout of the apartments (regarding inner rooms that are not permitted under 2016 regulations, and the duplex arrangements where staircases discharge into the kitchen/living room), which have still not been addressed in the revised submissions and acknowledged to be outstanding issues in the Isle of Man Fire and Rescue Service consultation dated 8 March 2022. Whilst the IOM Fire and Rescue Service has asked that this be addressed at the Building Control Stage, the development would not be able to progress to the construction phase should the scheme be refused at Building Control stage, and new plans would have to be submitted which would considerably alter the basis for decisions made on the application should approval be granted. Given the above, it would be difficult to argue that the development complies fully with fire requirements, although these issues cannot be taken as reasons for refusal in isolation.

7.15 DESIGNING OUT CRIME (COMMUNITY POLICY 7 & GP2m)

7.15.1 In terms of designing out crime and antisocial behaviour, it is considered that the new apartment spaces are mostly only accessible by those with access to the apartments, other than those in the basement of blocks B and C where the spaces have been clearly marked out so that they are not used by other visitors to the site. As well, rising bollards with key fob control will be installed at the junction where the private drive meets with the existing highway (in front of Block B) to control access to this driveway; thus ensuring that only authorised vehicles have access to the private areas.

7.15.2 The development will also entail providing sufficient levels of external lighting to illuminate the pedestrian walkways, vehicle access roads and car parks (in accordance with British Standard requirements, CIBSE guidance, etc.) to ensure that these spaces do not become easy targets for crime, which would in turn improve that safety and security of the residents, the public, and staff. Likewise, the proposed rear garden spaces are positioned such that there are overlooking views from the apartments to ensure legible unrestricted public surveillance at all

times of the day. AS well, the proposed landscape plantings within the garden would be at scales and include species that would not create blind spots which impede surveillance.

7.15.3 When these elements of the proposal are assessed against the requirements of General Policy 2 (m) and Community Policy 7, it is considered that the proposed development complies with the relevant policies.

7.16 FLOODING (EP 13 & GP 2I)

7.16.1 In respect of drainage, it is noted that the scheme is supported by a drainage strategy which includes a surface water strategy that consists of a network of surface water sewers which would gather runoff and discharge into the sea via a non-return valve to prevent sea water from backing up into the network. This strategy has been clearly depicted on a Plan which clearly shows every element of the drainage management scheme. These have been considered by Manx Utilities Drainage who confirms that the submitted information satisfies their concerns.

7.16.2 In terms of flood risk concerns, the site is not within a High Flood Risk zone (River or Tidal). Advice has, however, been sought from DOI Flood Management Division who have confirmed that there are no concerns with flooding in relation to the development.

7.16.3 However, there has been recent concern that the site is prone to coastal overtopping and given that these concerns bordered on the safety of occupants of the development when completed, additional advice was sought on the issue for which DOI Flood Management Division who advise that the tidal flood level for area for the 1 in 200 plus climate change event is 4.57mAD02, and as the area where the buildings are being constructed are well above this level, there were no concerns. They also note that there hasn't been a wave overtopping study done for Port Erin, albeit, they would not envisage that with the proposed buildings elevation and position, wave overtopping would be a significant concern; thus they do not oppose the proposed development for these reasons.

7.16.4 It is also noted that the applicants have provided a Flood Risk Assessment Report for the site from specialist flood consultants who assessed the risk of flooding from the development and to the development, and concluded that there were no likely risks to or from the development.

7.16.5 Based on the foregoing, it is considered that flooding of or from the site is not a concern, and the development would comply with Environment Policy 13 and General Policy 2(I) in terms of flooding concerns on and off-site.

7.17 ISSUE WITH ROCK FALL FROM THE CLIFF FACE (GP2m)

7.17.1 A concern that was identified on a recent site visit on 25 September 2021 borders on the possibility for rock fall to be a concern at the site. During the site visit rock fall was experienced on site moments after sighting a sign that clearly reads "Danger falling rocks". This issue was raised with the applicants who provided a geotechnical desk study of the cliffs which concludes that the condition of the existing rock face and associated slopes, poses very low risks to construction workers or end users at the site. Further advice was sought from the Head of Design, DOI Highway Services who advises that the likelihood of rock fall hazards at the site would be low as the cliff face consists predominantly of exposed rock with minor areas of erosion materials in mid slope areas and its lower slopes. He further reinforced this assertion by stating that the addition of the three storey lecture theatre extension to the Old Marine Biological Station resulted in local rock face strengthening works, although he recommended that the fully detailed building control application for the development should contain a Structural Engineer's / Geo Technical Engineering assessment of the existing rock face and confirmation of its stability in light of the proposed development incorporating retail, apartments and restaurant with associated parking.

7.17.2 Whilst the above serves to diminish concerns with rock fall, they, however, do not discountenance the view that rock fall could occur or is a possibility; hence the requirement for a detailed Geo Technical Engineering assessment during the building control phase of the application by the Head of Design, DOI Highway Services.

7.17.3 The detailed Geo Technical Engineering Assessment has now been provided in the form of a Rock Face and Slope Stability Inspection Report prepared by Ivy House Environmental (dated February 2022). This report has assessed the key issues with rock fall at the scene and provided possible mitigations, much of which are centred on the construction phase, and do little in mitigating or ameliorating possible impacts that could result from the development for future users.

7.17.4 These gaps with the submitted report was discussed with the applicants who have prepared a response that states the measures to mitigate impacts for future users; such as:

- o On completion of the development demolition, and groundworks near to the cliff face, another inspection of the cliff face may be undertaken to see if any vibration disturbance has increased risks of local rock fall at anywhere on the face and a report produced;

- o After the completed development, a condition survey of the cliff face would be undertaken by the development management company in consultation with building control at regular intervals e.g. every 2 years (This would assess if there is any need to change the risk assessment and if necessary undertake any local remedial measures, and be undertaken by a specialist contractor and consultant);

- o The roof terrace may be fenced off 3m back from the cliff face if necessary;

7.17.5 Whilst these additional measures suggested by the consultants would be suitable for a site with a lot of manoeuvrability in terms of potential approaches to development of the site to keep occupant areas away from the cliff, the quantum of development and the limited land available to the development limits the avenues for such measures should safety hazards prevail after the construction works.

7.17.6 Granting the geotechnical report and the advice from DOI indicate that the hazards posed by the occasional rock fall would be low, the fact that minor areas of erosion materials still exist in mid slope areas and lower slopes along the rock face, with the potential for rock stability to be altered by construction activity still eminent, suggests that there could still be hazards during the construction phase/occupation of the development. Based on the foregoing, the key concern here still lies in determining what levels of rock fall would be considered low enough to make the area safe for future use.

7.17.7 From reviewing the mitigation measures suggested, it is noted that a condition could be imposed to ensure that a Structural Engineer's / Geo Technical Engineering assessment of the existing rock face and confirmation of its stability (including possible mitigation measures should rock fall be considered to be a significant concern after the construction phase) be submitted to and approved in writing by the Department prior to occupation of the development. The suggestion that fencing be erected within the roof terrace and garden to separate occupant areas from the rock face could also be included as a condition for approval. However, given that no plans have been submitted to this effect (as the protective measures are not included as part of the revised submissions), the possible impacts of the fencing measure have not been assessed. Besides, such a proposal would result in significant changes in the landscape and roof design, and would result in a scheme that considerably reduces the amenity areas available to future occupants of the development.

7.17.8 The objection raised by the Ecosystem Policy Team regarding future netting being unacceptable here due to possible impacts on amber listed nesting birds holds significant weight in determining acceptable mitigation in this case (should rock fall be a concern). Accordingly, any mitigation measure proposed for the site to ameliorate rock fall impacts if the further Geotechnical assessment of the rocks here requires more safety installations would exclude netting of the cliffs as a mitigation options.

7.17.9 The email received from the applicants agent received 27 October regarding factual errors within the Ecosystem Policy Team's consultation which discusses rock fall dated 19 October 2021 is also noted. However, this has not altered the contents of the report regarding rock fall as the issues highlighted within the correspondence have been adequately covered in the report.

7.17.10 On balance, it could be argued that the proposed scheme partly satisfies the requirements of General Policy 2 (m) which requires that developments should "take account of community and personal safety...in the design of buildings and the spaces around them" since a report has been provided which assesses the concerns with rock fall at the site. Notwithstanding, this does not eliminate any potential for danger at the site as was experienced during a site visit on 25 September 2021.

7.18 OTHER MATTERS

A. Loss of existing buildings on site

7.18.1 Whilst it would have been more appropriate for the development to integrate the existing buildings on site (as defined in Part 2 of the Development Brief), the loss of the existing buildings have been clearly addressed in paragraph 6.8.1 of the Officer report for PA 19/00373/A which states that "None of the buildings is currently in a particularly good state of repair or appearance. The older buildings, particularly the original Marine Biological Station is of acknowledged historical and architectural interest, having been identified in the Area Plan for the South adopted in 2013 as worthy of consideration for Registration. However, this has never been progressed and even in the face of a planning application which clearly proposes demolition of the building, the Department has taken no steps to protect any of the existing buildings on site. It is therefore not considered that the loss of the existing buildings should not be a reason for refusal, given that the buildings on site could be demolished without the need for planning approval under Part 2, Section 6(2) e of the Town and Country Planning Act 1999 and Class 36 of The Town and Country Planning (Permitted Development) Order 2012". As such, their retention as required by Part 2 of the brief is not practical in this case.

7.18.2 No other concerns have been noted.

8.0 CONCLUSION

8.1 The following issues weigh in favour of the proposal; the regeneration opportunities; the limited impacts on the adjacent conservation area; the volume of amenity provision; the highway safety impacts; the contributions to energy use and conservation; approach to water consumption/management; the approach to designing out crime and prevention; and flood impacts. In particular, significant weight is placed on the regeneration benefits and use of previously developed land, and possible social/economic benefits that would be triggered by the development.

8.2 Conversely, the following issues weigh against the proposal; the potential adverse impacts upon the visual amenities of the area; the detrimental impacts on the landscape; the approach to public open space provision; and the adverse impacts on ecology (particularly the impact on fulmars); and partial compliance with Development Brief 22. In particular, significant weight is placed on Development Brief 22, Visual impacts, impacts on the landscape, and the

impact on ecology. When assessed together, the combination of these factors indicates that the overall scale of development is inappropriate for the site.

8.3 It is also vital to note that some of the elements are borderline as they only partly comply with the relevant policies, but would not comply fully with the policies and legislation; such as the requirement of the Development Brief 22 which stipulates that the site is suitable for marine-based tourist/leisure purposes (including associated accommodation), but with an element of residential use (with the scheme involving predominant residential use with some associated tourist accommodation and minimal marine-based tourism; impacts on the public footpath, fire hazard management, and approach to affordable housing.

8.4 Whilst it has been established that there are a number of factors which weigh in favour of and against the development, with particular weight placed on certain elements, it should be noted here that the key considerations for determining the acceptability of development proposal here is Development Brief 22 which sets out the criteria for how the site should be developed. Of the seven items identified here, the proposed development would only comply fully with items 3, 5, and 7, and only partially compliant with item 1, with the scheme failing items 2, 4, 6 and significant parts of item 1. As such, it is considered that the scheme would fail to comply with the Development Brief for the site. The scheme would also fail to comply with Landscape proposal 10 which supports the Development Brief for the site and requires that only very limited additional new built development should be allowed on the site.

8.5 Therefore, on balance, given the weight assigned to Development Brief 22 of the Area Plan (as required by General Policy 2a), and ecological considerations over economic and social considerations for sites of ecological importance, the application is recommended for refusal.

9.0 SECTION 13 LEGAL AGREEMENT

9.1 The applicants have indicated that should the application be approved they would be willing to enter into Section 13 Legal Agreements to facilitate the scheme, and ensure that the proposal aligns with Environment Policy 5 of the Strategic Plan which provides for the inclusion of Planning Agreements to minimise disturbance, conserve and manage ecological interests, and provide new or replacement habitats so that the loss to the total ecological resource is mitigated, in situations where damage is unavoidable.

9.2 With regard to the provision of children's play space, the applicants have stated that discussions have been held with the Port Erin Commissioners who agree with and welcome the contribution of a commuted sum offered by the developers to improving a local play area to the value of c. £20,000, in lieu of on-site children play area provisions. This would be secured through a Section 13 agreement, should approval be granted.

9.3 The heads of terms of a section 13 agreement to secure mitigation measures and monitoring measures for nesting birds has also been discussed with the relevant consultees. These heads of terms include:

- o Wall and Bothy repairs plus any ancillary boundary treatment to secure potential gull nesting from human interface.
- o Provision of nesting ledges elsewhere, e.g. on west facing cliff adjacent to site. This will be based upon worst-case scenario that there is 100% loss of nesting by fulmars and herring gulls as a worst case scenario.

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

Item 5.2

Proposal : **Erection of a detached dwelling**
Site Address : **Vacant Plot (Plot 3)**
 Plot Adjacent To Hazelwood House
 Ballaragh Road
 Laxey
 IM4 7PH
Applicant : **Mr Mark Grace**
Application No. : **21/00737/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 commencement of the development hereby approved, an on-site Montbretia Control Plan which sets out measures to prevent the spread of Montbretia which is a non-native invasive plant species shall be submitted to and approved in writing by the Department. The development shall not take place other than in accordance with that Plan.

Reason: To ensure that Montbretia is not spread via course during the construction phase of the approved development.

C 3. 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 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 in the interests of highway safety.

C 4. Prior to the commencement of the development hereby approved, the flood protection details at site entrance and drainage management for the site shall be submitted to and approved in writing by the Department. The development shall not take place other than in accordance with the agreed details and shall be permanently retained thereafter in accordance with the approved scheme.

Reason: To ensure that adequate drainage/flood control measures are provided, and retained, in the interests of the amenity of the area.

C 5. Prior to the commencement of the development a scheme which shows the following shall be provided and shall be fully implemented prior to the occupation of any dwelling;

- o Bat and bird boxes installed high up under the roof line;
- o Bird bricks installed on the North-west elevation;
- o Bat bricks installed on the south east elevation.

Reason: In the interest of biodiversity within the site.

Reason for approval:

It is considered that the planning application is in accordance with General Policy 2 of the Isle of Man Strategic Plan 2016 and the relevant sections of the Residential Design Guide 2019 and it is therefore recommended that the planning application be permitted.

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):

Hazlewood House, Ballaragh Road, Laxey;
Ballaquirk Lodge, Ballaragh Road, Laxey;

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):

Cor-Valley, Ramsey Road, Laxey, is 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

It is recommended that the following Government Departments should not be given Interested Person Status on the basis that although they have made written submissions these do not relate to planning considerations:

The Isle of Man Land Registry

Planning Officer's Report

THE APPLICATION IS BROUGHT BEFORE THE COMMITTEE AS THE LOCAL AUTHORITY HAS MADE WRITTEN REPRESENTATIONS OBJECTING TO THE APPLICATION AND THE APPLICATION IS RECOMMENDED FOR APPROVAL.

1.0 THE SITE

1.1 The application site comprises of a parcel of land that is located between existing residential developments on the southern side of the B11 (Ballaragh Road) in Laxey. The site represents Plot 3, which was previously a part of a large residential plot that has been split into three plots with the other plots (Plots 1 and 2 having been finished for some time). The site

frontage is bounded by a 2.1m high Manx stone wall interspaced with masonry rendered stone pillars with bevelled tops (2.4m high), with its centralised access having two of the masonry rendered pillars on both ends.

1.2 Like the neighbouring properties on this side of Ballaragh Road, the site sits on a steep landscape which rises to about 6m from the southern boundary to its northern boundary. The site slopes downward from north to south with Ballaragh Road sitting about 10m higher than the land immediately to the rear of the proposed house. The land currently slopes downward at a slope of 8 - 10 degrees.

1.3 The locality comprises a mix of single, split level and two storey detached dwellings, with a significant proportion of them rendered and finished in a light colour, and many having pitched or hipped roofs. A number of the properties are modern, with a varied range of designs, themes and character that reflect their age. There is no dominant design type or prevailing building line.

2.0 PROPOSAL

2.1 The application is for the erection of a detached split level dwelling with garage. Due to the sloping nature of the site the house is cut into the hill side and from Ballaragh Road would appear as a bungalow, although there would be glimpses of the two storey element to the rear.

2.2 The property would have an open plan kitchen/sitting/dining area, a lounge, guest room, utility, entrance, three garages, and deck area on the ground floor, while the lower ground floor will house a cinema/gym, four ensuite bedrooms, a study and a lower deck area.

2.3 The applicants have provided a planning statement which concludes by stating the following:

- o The design of the proposal has been carefully considered with regard to both neighbours but in particular the occupants of Hazlewood House who have been consulted through the design development process and prior to any submissions.
- o Overlooking and the perception of overlooking has been considered by situating the proposal further away from Hazlewood House than the current planning approval:
 - With the careful design of minimal glazed elements to the west elevation.
 - With considered design of the proposed balcony, allowing enjoyment of the outlook from the proposal but with a substantial reduction in area. The previously approved balcony position allows a greater area of direct overlooking to Hazlewood House.
 - With lower ridge levels adjacent to Hazlewood House.
 - With shorter wall mass along the Hazlewood House boundary. The previous approval shows approximately 35.5m of wall area facing the Hazlewood House boundary. We propose 18.5m of wall area to the same boundary, situated further away.
- o The darker coloured materials would sit more comfortably within the landscape than the more dominant white painted walls of surrounding dwellings.
- o The design is more contemporary utilising newer building materials and themes whilst using traditional external finishes such as slate, timber and render. These materials are in keeping with the area and would clad a highly insulated form, designed to exceed the current heat loss requirements.
- o The proposals to meet current planning policies with regards to use, siting, design and materials.

3.0 PLANNING POLICY

3.1 The application site is within an area zoned as 'Predominantly Residential Use' on the Area Plan for the East (Map 7 - Laxey), and the site is not within a Conservation Area. The site is not at risk from flooding nor are there any Registered trees on the site. The site is also not

within a Registered Tree Area. As such, the following Strategic Plan policies are considered relevant:

3.2 The Character Appraisal within the Area Plan for the East states thus concerning the area:

"Landscape Character Area: Laxey (D2)

3.2.1 Landscape Strategy

Conserve and enhance:

- a) the character, quality and distinctiveness of this area, with its relatively sparse settlement other than the characteristic settlement of Laxey;
- b) its distinct small-scale field pattern;
- c) its valley bottom woodland along National Glens;
- d) the setting of the various historic and archaeological features within the area.

3.2.2 Key Views

Dramatic views to an Upland backdrop to the North and West.

Channelled views East and West along the corridor of Laxey Glen.

Views to the instantly recognisable Lady Isabella water wheel as a landmark within the area.

Panoramic views eastwards across the sea from areas of higher land within the character area.

3.3 In terms of Strategic Plan policy, the Isle of Man Strategic Plan 2016 contains the following policies that are considered specifically material to the assessment of this current planning application:

3.3.1 General Policy 2:

"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;
- (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."

3.2.2 Housing Policy 6 states:

"Development of land which is zoned for residential development must be undertaken in accordance with the brief in the relevant area plan, or, in the absence of a brief, in accordance

with the criteria in paragraph 6.2 of this Plan. Briefs will encourage good and innovative design, and will not be needlessly prescriptive."

3.2.3 Strategic Policy 5:

New development, including individual buildings, should be designed so as to make a positive contribution to the environment of the Island. In appropriate cases the Department will require planning applications to be supported by a Design Statement which will be required to take account of the Strategic Aim and Policies.

3.2.4 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 where identified in adopted Area Plans: otherwise new housing will be permitted in the countryside only in the following exceptional circumstances:

- (a) essential housing for agricultural workers in accordance with Housing Policies 7, 8, 9 and 10;
- (b) conversion of redundant rural buildings in accordance with Housing Policy 11; and
- (c) the replacement of existing rural dwellings and abandoned dwellings in accordance with Housing Policies 12, 13 and 14.

3.2.5 Strategic Policy 1:

Development should make the best use of resources by:

- (a) optimising the use of previously developed land, redundant buildings, unused and under-used land and buildings, and re-using scarce indigenous building materials;
- (b) ensuring efficient use of sites, taking into account the needs for access, landscaping, open space(1) and amenity standards; and
- (c) being located so as to utilise existing and planned infrastructure, facilities and services.

3.2.6 Transport Policy 7 states:

"The Department will require that in all new development, parking provision must be in accordance with the Department's current standards.

The current standards are set out in Appendix 7."

3.2.7 Environment Policies 4 and 5 seek to protect the ecology of sites and important habitats.

4.0 OTHER MATERIAL PLANNING CONSIDERATIONS

4.1 Whilst not adopted planning policy, DEFA's Residential Design Guide (2021) is a material consideration in the assessment of this application as, "It is intended to apply to any residential development within existing villages and towns, including individual houses, conversions and householder extensions...". Sections 2.0 on Sustainable Construction, and 7.0 which deal with impact on neighbouring properties are considered relevant to the current scheme.

4.2 The Isle of Man's Biodiversity Strategy (2015 - 2025)

4.2.1 "Species conservation

To effectively conserve rare species requires evidence-based policies and measures, which in turn need data from studies undertaken on the Island or in comparable places. Conservation measures may include law enforcement or incentives to land managers for habitat management such as grazing or control of non-native species.

The Isle of Man Delivery Plan will identify species and habitats requiring action (Biodiversity Action Plans). Work on the plans and conserving some plants and animals has already begun. For example bee orchid, basking shark and red-billed chough are subject to dedicated programmes of research and conservation. Key species and priority habitats will be identified and plans drawn up".

5.0 PLANNING HISTORY

5.1 The application site has been the subject of a number of previous planning applications for its development for residential use which are considered to be specifically material to the assessment of this current planning application.

5.2 The most recent application for the site PA 20/00715/B was approved in October 2020. This application is the same as the extant application under PA 16/00857/B. This was submitted to enable the extension of the four year implementation period as the previous application was to expire in November 2020.

5.3 PA 16/00857/B for Erection of a detached dwelling with garage - Approved. This application became void in November 2020 as it was not implemented within the required four year period. This application was a replica of the 2010 approval which had subsequently lapsed.

5.4 PA 10/01860/B for Erection of a dwelling (comprising amendments to 06/01756 REM) - Approved. This altered the position of the proposed building as the plan was flipped to place the garage on the boundary with Hazlewood, rather than its previous position close to Ballaquirk Lodge.

5.5 06/01756/REM for Reserved matters application (re 06/01251A) for the erection of a split level dwelling and garage on Plot 3 - Approved.

5.6 PA 06/01251/A for Approval in principle for the erection of three detached split level dwellings with associated garages on Plots 1, 2 and 3 - Approved. All the buildings were to be identical, with the only difference being the position of the garages. The dwellings were designed with large first floor balconies at the rear with views to the neighbouring curtilages from the balconies (as there was indivisibility from the balconies).

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 'Do not oppose' in the letters dated 16 July 2021/18 November 2021.

6.2 Department of Infrastructure (DOI) Highways Drainage:

6.2.1 Consultation dated 6 August 2021:

They asked that decision on the application be differed pending submission of further information regarding drainage arrangement at the site.

6.2.2 Consultation dated 17 December 2021:

They state that they would be satisfied with a planning condition stating that the flood protection details at site entrance must be agreed with FMD and DOI Highway Services before any work commences on site. They note that there are a couple of existing road gullies that drain into the site which should ideally be connect to the ditch running down the east side of the plot but further investigation is required as to its capacity and downstream route.

6.3 DEFA's Inland Fisheries Officer has made the following comments regarding the application in a letter dated 06 December 2021:

- o They have no objection to the proposed development, provided that the precautions that have been considered by the applicant are followed and there is no disturbance of the watercourse.

- o The applicant is advised to contact DEFA when works are due to commence.

6.4 Consultation from DEFA's Ecosystem Policy Team:

6.4.1 Letter dated 30 July 2021:

- o The team notes that the site is developing a thick gorse scrub ground cover, which has potential for nesting birds.
- o They advise that gorse removal should take place outside of nesting season to lower the risk to nesting birds and to avoid delays to building work should nesting birds be present.
- o They advise that thorough checks for nesting birds must be undertaken prior to vegetation removal, and if nesting birds are present then removal must be delayed until nesting has finished and the young have fledged.
- o They advise that that the applicant could include bat and bird bricks on the new property as an enhancement for wildlife due to the suitability of the new property. Bricks can be incorporated to work with wood cladding. Both bat and bird boxes should be installed high up under the roof line. Bird bricks would be most suitable on the North-west elevation and bat bricks on the south east elevation.

6.4.2 Letter dated 02 December 2021:

- o They note that montbretia which is a non-native invasive plant species is present on the site.
- o They advise on the primary mode of spread on sites.
- o They recommend that a condition is secured for a responsible on-site montbretia control plan to be produced, to ensure that it is not spread via the construction works. This should be provided to Planning for written approval prior to works (most importantly enabling working include ground clearance) taking place.

6.5 The Isle of Man Land Registry has written in to state that they have been contacted by their advocates of the neighbouring property at Hazlewood House to investigate a potential error on their title deeds and that of the application site (Plot 3).

They state that it does appear that certain covenants have not been included on these titles and that one of the covenants is not to build in front of a build line on plot 3. They conclude by stating that they are currently considering rectification of both titles (11 November 2021).

6.6 Garff Commissioners have made the following comments on the application:

6.6.1 3 August 2021:

- o There are concerns with the design and siting of the proposed dwelling.
- o Concerns include height, and its design which is a departure from the style of the neighbouring dwellings.
- o The footprint of the building is too low on the plot, particularly in the context of the landscape.
- o They opine that the dominant position of the proposed building over the Laxey Conservation Area was considered a concern.
- o They state that a building that was more integrated into the landscape would be more acceptable.
- o They state that a consensus was that no further development should be permitted in the vicinity until all flood mitigation works were completed.
- o They object to the proposal.

6.6.2 23 November 2021:

- o They advise that their previous objection remains after reviewing additional documents submitted.

6.6.3 29 November 2021:

- o They advise that their previous objection remains after reviewing additional documents submitted.

6.7 Manx National Heritage advice on thick gorse scrub which has overgrown the site and its value as a nesting and roosting site for a number of bird species. They recommended that the gorse be checked for nesting birds or basking common lizards prior to any works taking place (24 November 2021).

6.8 The owners/occupiers of Hazlewood house, Ballaragh Road, Laxey object to the application on the following grounds (28 July 2021/16 September 2021/26 November 2021):

- o The current application is a break of the build line restriction agreed with the previous owner of the plot.
- o The design is not coherent with the original application appearance.
- o The timber clad finish is not in keeping with the existing application.
- o The siting is not on the previously approved footprint.
- o There would be impacts on their privacy as a result of the change in position.
- o Loss of light
- o Impact on outlook
- o Impact on property value.

6.9 The owners/occupiers of Ballaquirk Lodge, Ballaragh Road, Laxey object to the application on the following grounds (3 August 2021):

- o Building not on prevailing building line in area.
- o Loss of privacy
- o Building is not in line with character of the area.

6.10 The owners/occupiers of Cor-Valley, Ramsey Road, Laxey object to the application on the following grounds (3 August 2021):

- o Inadequate drainage
- o Overpopulation in area

7.0 ASSESSMENT

7.1 The fundamental issues to consider in the assessment of this current planning application are:

- i. The principle of the proposal;
- ii. Potential impact on the neighbouring residents living conditions;
- iii. impact on the character of the wider residential area; and
- iv. Potential impact on highway safety for access/parking provision.
- v. Impacts on Ecology

7.2 The principle of the proposal (GP2, HP 4, SP 1)

7.2.1 As outlined within section 3 of this report, the site is designated as predominately residential use on the area plan and as such the proposal for residential development is acceptable in terms of complying with the land-use designation.

7.2.2 It is also considered that Housing Policy 4 and Strategic Policies 1 require that new dwellings be located within existing settlements or sustainable urban extensions; being located so as to utilise existing and planned infrastructure, facilities and services and development should optimising the use of previously developed land. This proposal would meet these aims which essentially seek development within exiting settlements rather than the countryside.

7.2.3 Based on the foregoing, it is considered the principle of developing the site for residential use is acceptable. It is also vital to note that the site is large enough to accommodate a dwelling of the proposed size with sufficient room to provide for the required parking and turning arrangements. The acceptability of the entire scheme would, however, be determined by the outcome of the assessment of the other matters listed within paragraph 6.1 of this report which still need to be considered acceptable.

7.3 Potential impact on the neighbouring residents living conditions (GP 2)

7.3.1 With regard to impacts on neighbouring residential amenity, the property most likely to be impacted by the new development would be 'Hazlewood house' the split level detached dwelling situated on the west elevation of the proposed dwelling, given that the new dwelling would be situated about 8m (at the closest point) from this dwelling with windows set at a slightly higher level over this dwelling. However, any impacts to overlooking is diminished by the fact that the ground floor which has elevated views over this neighbour would have less windows with smaller areas comparative to the building previously approved for this site, with the intervening hedging serving to restrict views to this neighbouring property. Also, the upper deck area which offers views to this neighbour has been significantly reduced in area with only a 1.6m section having direct views to the neighbouring property; a condition that is significantly improved over the previous design which had a large balcony with a 6.8m section offering views to Hazlewood house; although it is also considered that the existing mature hedging on the boundary which is considerably close to Hazlewood house would screen views to this neighbour.

7.3.2 While the new dwelling is proposed to be pushed further into the site by about 7.7m beyond the position of the recently approved dwelling under PA 20/00715/B (and about 2.5m beyond the position of the building approved under PA 06/01756/REM, the lowering of the ridge levels adjacent to Hazlewood House by about 800mm, the shortening of the wall mass along the Hazlewood House boundary from 35.5m to 18.5m of wall area, as well as the positioning of the proposed dwelling 2.5m away from the recently approved position would ensure that there are no overbearing impacts even if the new dwelling is on a slightly elevated position compared to Hazlewood House. It is also considered that no loss of light would result, given the 8m separating distance between these dwellings; as there would be no shadows cast on the neighbour. It is also vital to note that the area slopes towards the east allowing the properties on the west to have an elevated position over the western neighbours. This is evident in the relationship between Hazlewood House and Melview to the east, Melview and Kings Haven, as well as Kings Haven and the property to the west.

7.3.3 Whilst comments made by the owners of Hazlewood House regarding overlooking is particularly noted given the emphasis placed on this impact in their representation, the only windows on the directly abutting elevation with views to this neighbour would be about 500mm wide and would only have views to the rear of this neighbouring property which has over six large windows on this elevation. It is also important to state that the 1.5m wide section of the new upper deck area would offer less views to this neighbour when compared to the previous approval with large balcony areas. It is also vital to note that there is some form of mutual overlooking from the balconies at the rear sections of both properties at the ground floor level.

7.3.4 In considering possible impacts on Ballaquirk Lodge situated directly east of the application site, it is noted that Ballaquirk Lodge is situated over 13m from the east elevation of the proposed dwelling and on a higher elevation, with the existing boundary treatment which is about 3.4m at the lowest position on the boundary ensuring that there would be no detrimental impacts on this neighbouring property.

7.3.5 With regard to the dwelling at the south, it is considered that this property is positioned about 30m away from the proposed dwelling; a condition that would ensure there are no impacts from a dwelling in terms of loss of light, overbearing impacts and overlooking. The existing 2.8m high hedging on the boundary between both dwellings will further diminish any impacts on this southern neighbour.

7.4 Impact on the appearance and character of the area (GP2 & SP5)

7.4.1 The character of the area is very mixed and as such, what is proposed here, whilst contemporary, would be more in keeping with the varied nature of the locality.

7.4.2 The relatively recent Residential Design Guidance (2021) in section 3.2 supports good design and recommends that "A housing development should avoid having the same type, height and density throughout, including avoiding continuous, bland and un-interesting roofscapes". It also advises that "dwellings should ideally be sufficiently flexible and adaptable to meet the changing needs and demands of its residents over the foreseeable life of the development with homes being capable of extension and adaptation to the changing needs of their occupants"; conditions which the current proposal meets. It is also considered that the development would incorporate timber finishing which is more in keeping with the nearby countryside setting, as well as the slate roof finish which is prominent on the properties within the locality. The style and finishing of the property, is therefore considered to accord with those parts of General Policy 2 which require development to respect the character and appearance of the area.

7.4.3 With regard to impacts on views into and out of the Laxey Conservation Area (as noted the comment made by the Commissioners), it is noted that the site would be significantly screened by mature landscaping which borders the boundary of the application site, with the development being built into the topography. Besides, the Conservation Area is situated about 400m away with the intervening topography and landscaping features screening the site considerably from distant views. Thus, it is considered that the proposed development would not impact on the Laxey Conservation Area, not counting the fact that the development cannot be subject to Environment Policy 36, as the site cannot be considered to be close to the Laxey Conservation Area, or having detrimental effects on important views into and out of Conservation Areas.

7.4.4 The comments made on the proposed building not keeping to building lines are noted. However, there are no prevailing building lines in the area as the properties have varying setback distances from the abutting highway.

7.5 The impact on highway safety including adequate car parking and access (TP7 and GP2)
7.5.1 The proposed dwelling would be served by three garage spaces within the integral garage with provision made for parking spaces and turning areas within the site, which would be more than required for a residential development. This would ensure that there is no pressure on parking within the area as a result of the development. As well, the site already benefits from the required visibility from the site access for vehicles leaving and entering the site. Therefore, it is considered that the proposal satisfies the parking requirement of Transport Policy 7 and Appendix 7 of the Strategic Plan.

7.6 Impacts on Ecology (GP2, EP4 and 5)

7.6.1 As has been established in section 6.4 of this report, the application site is of ecological relevance considering it has biota that could be significant to birds and other important wildlife species. It is also noted that the site contains montbretia which is a non-native invasive plant and as such, steps must be taken to ensure they do not continue to propagate on the site. Given the above DEFA Ecology request regarding the imposition of a condition regarding montbretia is noted and it is considered that a suitable condition could be attached.

7.6 OTHER MATTERS

7.6.1 Drainage Matters

7.6.1.1 In assessing the drainage issues at the site, DOI Highways drainage have assessed the reviews to the scheme and stated that they are satisfied with a condition being imposed to ensure that flood protection details at site entrance must be agreed with FMD and DOI Highway Services before any work commences on site. It should, however, be noted here that the site is not within a flood risk area, and as such these considerations were only assessed as some existing road gullies drain through the site.

7.6.2 Deeds and Covenants

7.6.2.1 The issue of Covenants or details contained within Deeds are civil legal issues which have been raised by the neighbour and the Isle of Man Land Registry 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.

8.0 CONCLUSION

8.1 Overall, it is considered the principle of residential development is appropriate on this site for the reasons indicated would not have any significant impacts upon public or private amenities and therefore comply with the relevant planning policies listed. Accordingly, it is recommended that the application be approved.

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 28th March 2022

Item 5.3

Proposal : Installation of a polytunnel, tool shed and animal shelter
Site Address : Field 124530
Ballakeil Meadow
Smeale Road
Andreas
Isle Of Man
Applicant : Mr Hugh MacOwen
Application No. : 21/01250/B- [click to view](#)
Principal Planner : Mr Chris Balmer

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 polytunnel, tool shed and goat shed must be used only for agricultural/horticultural purposes.

Reason: The countryside is protected from development and an exception is being made on the basis of agricultural/horticultural need. As such the buildings must be used for the purposes for which they were approved.

C 3. If the polytunnel, tool shed or goat shed are no longer required or used for growing/keeping of horticultural/agriculture products, they must be removed from site and returned to grassed field all within 6 months of the cessation of the use.

Reason: the site is not designated for development and the development is approved on the basis of specific need in this case.

C 4. Prior to the commencement of the polytunnel, details of a planting scheme showing the location and type of trees/hedges to be introduced along the northern and western boundary of the site must be approved by the Department. Such planting must be native in type and should infill any existing gaps in the hedgerow along these boundaries through which there is a view of the existing buildings from the adjacent public footpath and the planting must be undertaken in accordance with these details and introduced in the first planting season following the completion of the polytunnel.

Reason: In the interests of the visual amenities of the countryside surrounding the site.

C 5. The polytunnel hereby approved shall be used for the growing of vegetables etc for the private use of the applicant and shall not be used for any commercial purposes.

Reason: In the interest of highway safety and as the application has been considered on a private usage basis only.

C 6. The external walls (except sections of clear Perspex above doors of tool and goat shed), doors, window frames and door frame all on the new tool and goat sheds must be a dark green/olive green/dark brown colour and the roof a dark grey colour all being retained thereafter.

Reason: In the interests of the character and appearance of the site and surrounding area.

Reason for approval:

It is considered the need for the proposed polytunnel, tool shed and goat shed are acceptable; whilst also not adversely affecting the countryside/landscaping; not having an unacceptable upon flooding on or off the site; having no impact upon the ecology of the site; or having any significant impacts upon highway safety . The proposal therefore complies with Environment Policy 1, 13 & 15 and General Policy 3 of the Isle of Man Strategic Plan 2016.

Interested Person Status – Additional Persons

It is recommended that the following persons 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):

The owner/occupier of Knock E Dhooney, Smeale, Ramsey as they satisfy all of the requirements of paragraph 2 of the Department's Operational Policy on Interested Person Status (July 2018).

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

Flood Management Division (DOI)

Planning Officer's Report

THIS APPLICATION IS REFERRED TO THE PLANNING COMMITTEE DUE TO THE PROPOSAL BEING; COULD BE CONSIDERED CONTARY TO THE DEVELOPMENT AND THE LOCAL AUTHORITY HAS OBJECTED TO THE APPLCIAITON PLAN BUT RECOMMENDED FOR AN APPROVAL

1.0 THE SITE

1.1 The site is Field 124530 (Ballakeil Meadow) which is located to the western side of the Smeale Road and north of Andreas Village. The site is accessed via a pedestrian public footpath which runs from the Smeale Road in a south westerly direction for approximately 120m. The site is just under 1 acre in size, rectangular in shape and is characterised as a flat agricultural fields which has mature landscaped boundaries.

2.0 THE PROPOSAL

2.1 The application seeks approval for the installation of a polytunnel, tool shed and animal (goat) shelter.

2.2 The proposed polytunnel would measure 4.8m in width, a depth of 23.7m in depth and a height of 2.5m. This would be located to the north-western corner of the site. It should be noted that initially a polytunnel with a 8m in width, a depth of 36m in depth and a height of 3m was proposed; however was reduced to the smaller size.

2.3 A Tool shed (4.9m x 2.4m x 3m) and Goat shed (3.6m x 2.4m x 3m) are proposed to the western boundary of the site.

2.4 The applicant have indicated that they wish the polytunnel to be able to grow fruit and veg for themselves (non-commercial) and the tool shed is to store tools, mover and other relevant equipment to farm the land and reduce the need for transporting equipment along the public footpath every time they visit the site.

3.0 PLANNING POLICY

3.1 The site lies within an area not designated for a particular purpose on 1982 Development Plan. As such, there is a presumption against development as set out in General Policy 3 and Environment Policy 1 of the Strategic Plan. The site is within a "High Risk for Surface Water" flooding only, not from "River or Tidal" flooding.

3.2 General Policy 3 states that 'Development will not be permitted outside of those areas which are zoned for development on the appropriate Area Plan with the exception of:

(f) building and engineering operations which are essential for the conduct of agriculture or forestry'

3.3 Environment Policy 1 states: "The countryside and its ecology will be protected for its own sake. For the purposes of this policy, the countryside comprises all land which is outside the settlements defined in Appendix 3 at A.3.6 or which is not designated for future development on an Area Plan. Development which would adversely affect the countryside will not be permitted unless there is an over-riding national need in land use planning terms which outweighs the requirement to protect these areas and for which there is no reasonable and acceptable alternative."

3.4 Environment Policy 13 states: "Development which would result in an unacceptable risk from flooding, either on or off-site, will not be permitted."

3.5 Environment Policy 15 states: "Where the Department is satisfied that there is agricultural or horticultural need for a new building (including a dwelling), sufficient to outweigh the general policy against development in the countryside, and that the impact of this development including buildings, accesses, servicing etc. is acceptable, such development must 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.

Only in exceptional circumstances will buildings be permitted in exposed or isolated areas or close to public highways and in all such cases will be subject to appropriate landscaping. The nature and materials of construction must also be appropriate to the purposes for which it is intended.

Where new agricultural buildings are proposed next to or close to existing residential properties, care must be taken to ensure that there is no unacceptable adverse impact through any activity, although it must be borne in mind that many farming activities require buildings which are best sited, in landscape terms, close to existing building groups in the rural landscape."

3.6 Transport Policy 4 states: "The new and existing highways which serve any new development must be designed so as to be capable of accommodating the vehicle and

pedestrian journeys generated by that development in a safe and appropriate manner, and in accordance with the environmental objectives of this plan."

4.0 PLANNING HISTORY

4.1 The previous planning application which is associated with the site is;
Erection of a summer house and creation of gated pedestrian access - 08/00501/B - WITHDRAWN

5.0 REPRESENTATIONS

5.1 Copies of representations received can be viewed on the government's website. This report contains summaries only. Further, the amend plans were advertised on the 14.03.2022.

5.1 Highway Services do not object making the following comments;

15.03.2022

"Highways Development Control notes the amendments uploaded on 14 March 2021 and continues to not oppose this proposal. It is understood that there is a right of access to the field along a definitive public right of way, No 25, which would not have been altered by lack of use in the past. There is limited parking available at the road side. No obstruction of another access or the public right of way should arise and any damage would need to be made good. Should Planning be minded to approve then HDC recommend restrictions are applied to limit any commercialisation of the site which would give rise to intensification of use, parking issues to detriment of highway and public safety and road network functionality which are applicable to a public right of way too."

22.10.2021

"After reviewing this Application, Highway Services HDC finds it to have no significant negative impact upon highway safety, network efficiency and /or parking."

5.2 Andreas Parish Commissioners have objected making the following comments.

04.11.2021

"Andreas Parish Commissioners have expressed concerns regarding the access to this site which is along a narrow public footpath. The concerns regard the construction of the buildings and the ongoing access to the site, and the potential damage this will cause on the footpath."

29.11.2021

"Andreas Parish Commissioners have previously considered this application. However, following an objection from a local resident the Commissioners agreed to revisit the application.

It was unanimously agreed that the previous comments submitted by the Commissioners on 4.11.2021 were still very relevant. In addition, it was unanimously agreed that the size and position of the polytunnel is unsuitable for the area. It is the opinion of the Commissioners that this tunnel will have a high visual impact on an area known for its less common wildlife habitat and scenic surroundings.

The Members feel that suggestions that the structure will be screened from the footpath by the field's boundary hedge are unrealistic taking into account the size of the tunnel.

It was agreed therefore, that the Commissioners, would OBJECT to this application."

5.3 Ecosystem Policy Officer (DEFA) initially sought an ecological assessment (04.11.2021) however, following discussion/site visit with the applicants made the following updated comments;

02.03.2022

"Further evidence, including site and aerial photographs show that the land, in particular the section chosen for the polytunnel, has already been significantly altered and used for a variety of purposes, severely diminishing its ecological value, since it was designated as a wildlife site. This includes being ploughed, used for growing pumpkins and used to keep hens. Areas of fencing and some minor structures have also already been erected. Additionally, though Field no. 124530 has orchid records, closer scrutiny reveals that the orchids were only ever found in the south-east of the site, and not where the polytunnel is to be constructed.

There is potential that some of the site could regain its interest over time via sensitive grazing, and enabling the owner to graze the site with goats could be beneficial because active management is required for species-rich grassland. However, the interest was concentrated, and is most likely to be regained, in the southern and eastern section of the land, which is not being considered within this planning application.

We therefore believe that the polytunnel, tool shed and goat shed could be accommodated as shown on the site plan, as long as majority of the main field, particularly the south-eastern area, is not built upon or used for arable purposes. Should the polytunnel location be changed then ecological assessments are likely to be required.

The Ecosystem Policy Team therefore do not believe that an ecological assessment is currently required. However, we would request a condition on approval for all tree planting to be undertaken with native or other well-established species and for it to be restricted to the boundary of the site."

5.4 The Flood Management Division (DOI) have objected to the application as the; "proposed building works are in a high risk surface water flood area" (18.11.2021).

5.5 The owner/occupier of Knock E Dhooney, Smeale, Ramsey have objected to application (17.11.2021) which can be summarised as: We write, as the owners of the adjoining field (124529 - to north of application site); We object on drainage/flooding, environmental, visual, and parking/access grounds; and as drainage/flooding issues from this proposal will affect our adjoining land; We would also question if the proposed erection of an industrial-scale polytunnel greenhouse would actually be a change of use; This site is indisputably a 'wet area'. It is part of the basin known as Leodest Lough; The water table is never far below the surface; The Main Drain has struggled to fulfil its role for more than a century; and the drainage authority (now DOI, latterly the MUA) has struggled to maintain the Main Drain in a serviceable condition; The area around the proposed site is low, and the Public Footpath to the west and north of the proposed site acts as a sump. In winter, as that area - the path and the site field - floods, the rising water level eventually gives rise to flooding in our field to the north of the Public Footpath; This commercial/industrial scale polytunnel greenhouse will be massively more visible; No landscaping or screen planting - of a scale that would be appropriate for the location - could screen this ten-foot-high monolith. A well-established belt of conifers all around the greenhouse might eventually screen it - but such intensive planting would in itself bring inappropriate visual and ecological modifications; this is a 'wet meadow' environment, and I am aware that vulnerable/protected species have been found therein; the only parking is the unsurfaced triangle outside our field gate. That triangle is at times already well used, by the owner of the eastern part of the field in question (124530), and at times by those from the dwelling across the road (Fuchsia Cottage) which has substandard access onto the apex of a blind bend; We would also wish to place on record that both wheeled (more recently) and tracked (previously) traffic along the Public Footpath to this site to carry out groundworks and ferry materials etc. into the site have caused serious problems; and register as an Interested Party as owner of adjoining land which could have increased flood risk from this proposal.

6.0 ASSESSMENT

6.1 The key issues for this proposal are; principle of development, whether there is an agricultural/horticultural need for the proposed buildings, the impact to the rural character of the site and the wider countryside, potential flood risk, potential ecological impacts and highway safety/parking.

The principle of the development

6.2 As outlined by Environment Policy 15 the Department must be satisfied that there is agricultural or horticultural need for a new building/s to outweigh the general policy against development in the countryside.

6.3 The applicant have indicated that essentially they want to grow vegetables etc. on a larger scale than an allotment but not as a commercial business. They comment;
"A modern tunnel with vertical sides and dimensions of 4.88 x 23.77m and a reduced height of 2.54m would provide room for 10 raised beds of 3.60 by 1.20m, which on reflection, would be sufficient to provide vegetables for my and my family's use. It would also allow for the staged growing of vegetables to avoid the situation where they all ripen at the same time."

6.4 Further

"The height of 2.54m is about the minimum required to accommodate the average person's height and allow for the growing of beans and peas and certain vines. It would also allow for the installation of an overhead automated watering system, in due course if required."

6.5 They also wish to keep goats/livestock on the site. While the operation is not connected to a full time farm holding, the proposed use and the building are agricultural in nature and therefore the principle of the buildings on this site are acceptable and the justification by the applicant's submission would appear reasonable and sufficient to outweigh the general policy against development in the countryside and therefore comply with General Policy 3 and Environment Policy 15. However, other material considerations as outlined in paragraph 6.1 also need to be considered.

The impact to the rural character of the site and the wider countryside

6.6 The site is setback from the Smeale Road and with mature landscaping to the site boundaries and within neighbouring fields/roadside boundaries, the site is screened from public views from the Smeale Road. However, the introduction of the buildings on the site will have the potential to increase visual impact to the landscape/countryside setting.

6.7 Visiting the site during winter periods, it was noted that the main public views would likely be from the entrance of the public footpath adjacent to Smeale Road and along the public footpath itself which runs along the northern and western boundaries of the site. From these perspective the buildings proposed would; in the main, be screened given the existing mature landscaping. There are gaps where the building/s would be more visible; however, a landscaping condition could be attached which reinforces the existing landscape to reduce the visual impact in these locations. However, irrespective of this there was initially some concern of the initial polytunnel proposed given its size and height, especially from the entrance to the public footpath adjacent to Smeale Road. Polytunnel by their very nature have a clear plastic finish, which can draw the eye more compared to a timber/metal clad building coloured in dark green/brown. Accordingly, following discussions with the applicant, they amended the polytunnel to a significantly smaller one in terms of footprint and height. Further in relation to additional planting they commented;

"As to additional planting along part of the northern boundary of the site, yes, this is my intention anyway, regardless of a polytunnel, I would like to make the whole field more private. I plan to plant many more willow trees which also help to reduce waterlogging and more gorse around the entire field as this provides an excellent permanent boundary in terms of year round

obscurity as well as being in keeping with the existing surrounding trees, shrubs and vegetation and further promoting wildlife."

6.8 Accordingly, with appropriately worded landscaping and finish of tool/shed conditions; it is considered the visual impact of the proposals would be sufficiently mitigated and would not adversely affect the countryside, complying with EP1 and EP15.

6.9 It is also worth noting that while it is always difficult to totally screen buildings in the countryside whether that be stables, polytunnel or agricultural buildings; it also needs to be understood that such buildings are not "alien" structures in such areas. The proposed buildings are agricultural in nature and what you would potentially expect to see in such rural areas. Further, there construction is also appropriate for the type of buildings proposed. Accordingly, the proposals from this perspective would comply with EP15.

Potential flood risk

6.10 As outlined by the Flood Management Division (FMD) the site is within a high risk flood area by surface water. From all the submissions made this appears to be caused by the main drain which runs to the east of the site which is blocked/not maintain sufficiently, result in water backing up and flooding into the adjacent fields/public footpath. This development will not worsen this existing issue. The FMD have objected purely on the grounds to the principle of development within a flood area. While understandable; this is not the policy test. EP 13 states; "Development which would result in an unacceptable risk from flooding, either on or off-site, will not be permitted.". This policy does not state you cannot develop in such areas, only that it should not result in an unacceptable risk from flooding, either on or off-site.

6.11 The applicant is fully aware of the situation and have commented;
"I also contacted the Flood Management Division (IOM Flood Hub) regarding the main ditches being somehow obstructed, which is causing my field and other fields around it to accumulate some surface water after excess rainfall; the flow from the field ditches into the main ditches appears to be impeded by the obstructed flow in the main ditches.

Having spoken to some residents who have lived in the area for many years, I have learned that these ditches originally worked very well in draining most of the water away quickly and that there never used to be an issue with surface water ponding.

After undertaking some in-depth surveying with appropriate tools, a friend and I have established that there is an obstruction of sorts in the main ditch running between Smeale road and Leodest road.

It appears that the problem lies within the adjoining property to the immediate south of my field which in the owner's words is "managed and maintained as a water meadow with pond". I also have detailed photos and videos of the ditches in quite a few different locations taken after heavy extended rainfall, which clearly show that the flow is somehow obstructed.

On reporting this to IOM Flood Hub, an officer (Matthew Ripley) has assured me he will investigate in coming weeks.

I believe that if the main ditches were cleared and maintained properly, the area would be in a lower category of flood risk and therefore not an issue (for whatever reason it seems to be) to the flood department's objection."

6.12 It is not considered the structures proposed on the site; given their size and design would result in an unacceptable risk from flooding, either on or off-site. The applicants has chosen the positions of the buildings in an area of the field which experiences less flooding

(northern section). The applicants are full aware of the flooding and the southern part of the fields which experiences the most flooding, they are not proposing to develop. They indicated the animals will be kept to the northern section of the field during these wet periods. The applicants also comment;

"The development does not include habitable structures and threw shallow ponding of water that occurs in winter months poses no risk to the proposed poly tunnel and sheds."

6.13 Accordingly, given the good understanding of flooding of the site by the applicant; namely through local knowledge, the position of the buildings within the site and their size/design; it is not considered the proposal would result in an unacceptable risk from flooding, either on or off-site and therefore comply with EP13.

Potential ecological impacts

6.14 As outlined by the more recent comments by the Ecosystem Policy Team, following their visit of the site their initial concerns have been overcome and they no longer consider there to be a unacceptable impact by this development, seeking only a condition for all tree planting to be undertaken with native or other well-established species and for it to be restricted to the boundary of the site.

Highway safety/parking.

6.15 As mentioned there is no vehicular access to the site from the Smeale Road, only from the public pedestrian footpath, which also serves neighbouring fields. At the entrance of the public pedestrian footpath adjacent to the Smeale Road, is a triangular parcel of land, which is partially grass and part gravel. It appears this area is used for vehicular parking for visitors of the neighbouring fields/ application site and potentially for walker utilising the public footpath. While the space is limited; it is not considered the proposed use of the site for non-commercial uses would generate a high level of traffic/parking requirements and will likely result in a single vehicle (applicant) at any one time when they are visiting the site. As mentioned, with the tool shed this will allow the applicant to store tools etc., rather than having to bring them to site causing less potential damage to the footpath.

6.16 It is noted comments from Highway Services who have raised no concerns in terms of parking/traffic generation. Accordingly, it is considered the proposal would be acceptable from this respect and comply with TP 4.

7.0 CONCLUSION

7.1 Overall, it is considered the need for the proposed polytunnel, tool shed and goat shed are acceptable; whilst also not adversely affecting the countryside/landscaping; not having an unacceptable impact upon flooding on or off the site; having no impact upon the ecology of the site; or having any significant impacts upon highway safety. The proposal therefore complies with Environment Policy 1, 13 & 15, General Policy 3 and Transport Policy 4 of the Isle of Man Strategic Plan 2016. Accordingly, the application is recommended for an 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.

8.3 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.

Item 5.4

Proposal : Continued use of 22 temporary car parking spaces
Site Address : 20 St Georges Street
Douglas
Isle Of Man
Applicant : Thyme Ltd
Application No. : 21/01398/C- click to view
Principal Planner : Mr Chris Balmer

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 use of the site as a temporary car park may continue until 3 years from the date of this decision notice whereupon the use must cease.

Reason: to reflect the intention of the application and to coincide the temporary period to that of recent approvals for temporary car parks in Douglas, all to accord with the COMIN directive on temporary car parks.

Reason for approval:

It is concluded that there is sufficient justification in this case; again, to approve the use of this site as a temporary car park until 2025. By then a new scheme or could be implemented or the Department will be in a position to resist any further extension of the temporary car park use of this site. This was stated by the last approved application; however given the Covid pandemic it is considered reasonable to allow the applicants perhaps a final chance to develop the site.

Interested Person Status – Additional Persons

None

Planning Officer's Report

THIS APPLICATION IS REFERRED TO THE PLANNING COMMITTEE AS THE PROPOSAL COULD BE CONSIDERED CONTRARY TO THE COUNCIL OF MINISTERS' ACTION PLAN; ALSO THERE IS AN OBJECTION FROM THE LOCAL AUTHORITY AND THE APPLICATION IS RECOMMENDED FOR APPROVAL

1.0 THE SITE

1.1 The application is an almost-triangular parcel of land situated at the south-eastern corner of St. George's and Hope Streets. Also within the control of the applicant are two parcels of land on Circular Road to the northwest, on which planning approval was granted for the construction of a large office block connected by an over-highway walkway, which is now complete and occupied.

1.2 The site slopes downward from north west to south east and is consistently hard surfaced with the access and exit from the west onto St. Georges Street. The site is bordered by timber post-and-rail fencing on the north-western and south-eastern sides. On the other boundaries are a stone and patched rendered wall adjacent to the church and the remaining buildings on St George's Street. At the time of the first site visit there were weeds growing at the edges of the hard surfaced area and the wall bordering the Church was finished in a patchy mix of stone and render.

2.0 THE PROPOSAL

2.1 The application seeks approval for continued use of 22 temporary car parking spaces for a period of three years.

2.2 Permission was granted in 1998 and 2003 for this use and it has continued as such, with and without permission, since under 98/00320/B, 03/00533/B, 15/00232/B, 17/00169/B and 19/00734/C with the last of these extending the approval until 20.09.20. The applicants have advised they have ceased using this car park due to this, Covid and also as part of the rear boundary wall has collapsed (needs to be repaired).

2.3 The applicant clarifies the situation by explaining that the site has been used as a temporary car park for 16 years and latterly by Thyme Limited whose tenant is Microgaming Ltd and whose approval for new offices on Circular Road (14/00113/B) required a parking strategy, part of which was a transport plan which aims to reduce transport to and from work by car by its staff and partly by the use of the temporary and permanent car parks on this site. 43 car parking spaces were to be provided on site (Circular Road) with a further 22 elsewhere (indicated at the time to be on this site). Since that time Microgaming have been considering their options for the application site with potentially office space above the car park as the further needs of their company emerge. However, this process was halted by Covid and the resultant economic consequences and therefore Microgaming are unable to carry out the capital investment of a multi-story car park.

3.0 PLANNING POLICY

3.1 The site lies within an area of "Mixed Use Proposal Area - 4 St George's" on the recently adopted Area Plan for the East 2020. The site abuts the Athol Street/Victoria Street Conservation Area.

3.2 The Isle of Man Strategic Plan (2016) contains a number of relevant policies.

3.2.1 Strategic Policy 10 states: "New development should be located and designed such as to promote a more integrated transport network with the aim to:

- (a) minimise journeys, especially by private car;
- (b) make best use of public transport;
- (c) not adversely affect highway safety for all users, and
- (d) encourage pedestrian movement"

3.2.2 General Policy 2 states: "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 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."

3.2.3 Transport Policy 4 states: "The new and existing highways which serve any new development must be designed so as to be capable of accommodating the vehicle and pedestrian journeys generated by that development in a safe and appropriate manner, and in accordance with the environmental objectives of this plan."

3.2.4 Transport Policy 6 states: "In the design of new development and transport facilities the needs of pedestrians will be given similar weight to the needs of other road users."

3.2.5 Environment Policy 36 states: "Where development is proposed outside of, but close to, the boundary of a Conservation Area, this will only be permitted where it will not detrimentally affect important views into and out of the Conservation Area."

3.2.6 Environment Policy 43 states: "The Department will generally support proposals which seek to regenerate run-down urban and rural areas. Such proposals will normally be set in the context of regeneration strategies identified in the associated Area Plans. The Department will encourage the re-use of sound built fabric, rather than its demolition."

3.2.7 Paragraph 11.5.3 indicates that the long term the target is to reduce the level of car parking required for town centre developments and seek to develop more sustainable staff and visitor transport plans but sets out a general policy (Transport Policy 7) "in the shorter term" which sets out parking standards for new developments.

4.0 OTHER MATERIAL CONSIDERATIONS

4.1 The Council of Ministers have approved an Action Plan to Reform the Planning System (hereafter "The Action Plan"). The document "Reform of the Planning System - Programme for Government 2016 - 2021" GD2018/0031 was laid before Tynwald on 15th May 2018. One of the actions set out within this is that, "Council of Ministers have agreed the following Policy with immediate effect: In order to continue to incentivise and support site redevelopment and the associated economic development, Planning Approval should not normally be given for brownfield sites to be used as temporary car parks" and that this is important, "To ensure faster brownfield site redevelopment and encourage socio-economic development".

4.2 Report of the Select Committee of Tynwald on the Development of Unoccupied urban sites (2017-2018) (hereafter "The Select Committee Report" recommended that,

"Tynwald calls upon the Council of Ministers and all Departments to use every means at their disposal to encourage and prioritise the development of unoccupied or previously developed urban sites ahead of building on greenfield sites in the Manx countryside; and in particular that Tynwald is of the opinion that urgent action should be taken ... (iv) to use the planning system,

taxation and other potential incentives to discourage greenfield development; (v) to use the planning system, taxation and other potential incentives to encourage brownfield development in Development Zones in Douglas and in other urban areas".

4.3 The Manual for Manx Roads (published by the Department of Infrastructure) sets out detailed guidance on highways matters.

4.4 The Area Plan for the East has been approved by Tynwald and came into operation on the 1st December 2020. This identifies that the application site is proposed for allocation as, "Mixed Use". The written statement indicates that:

"Mixed Use Area 4 - St George's This is the business district of Douglas and is characterised by offices, many serving financial institutions. Athol Street is notably the core of this area and is representative of the economic well-being of the Island. There is a smattering of food and drink uses supporting the area. The primary office frontage along Athol Street is notated by the hatched line on Map 5.

Town Centre - Mixed Use Proposal 4

There will be a presumption in favour of offices and financial and professional services along Athol Street. Within the area, but outside of Athol Street, offices, financial and professional services, food and drink and some residential uses will also be acceptable. Uses which conflict with these will generally not be supported. As this area lies partly within a Conservation Area, development plans should pay regard to the Conservation Area Character Appraisal for Athol Street and Victoria Street."

5.0 PLANNING HISTORY

5.1 There have been a number of applications on the site, which are considered relevant in the consideration of this application:

5.2 Temporary use as a car park (retrospective) was approved under 19/00734/C, subject to the following condition;

"The use of the site as a temporary car park may continue until 20.09.20 whereupon the use must cease.

Reason: to reflect the intention of the application and to coincide the temporary period to that of recent approvals for temporary car parks in Douglas, all to accord with the COMIN directive on temporary car parks."

5.3 Further, the permanent car park was approved under 16/00835/B, subject to conditions including the following:

"The land the subject of this application shall be used solely for the parking of motor vehicles of those employees working on or within the land parcels edged in blue on the submitted plan SC1328-00-10, date-stamped as having been received 14th February 2017.

Reason: Without this condition, it is possible that a planning approval on the land edged in blue could not be lawfully implemented, and is in any case intended to be used in connection with that land. Such a condition is therefore in the interest of highway safety generally and in the interest of providing sufficient car parking space more specifically."

5.4 The Microgaming offices were approved subject to conditions including the following:

"Prior to the occupation of the new building hereby approved, the applicant must have approved by the Department details of the provision of car parking to serve the development. This must

address the total number of spaces required to be provided under the terms of the Strategic Plan or a justification for any reduction in this provision such as a Travel Plan, and with a phasing arrangement for the delivery and retention of the spaces and the monitoring of the Plan. Once provided, the car parking spaces must be retained for use by those employed within or in association with the development hereby approved.

Reason: in the interests of road safety and reducing vehicular traffic to the development."

6.0 REPRESENTATIONS

6.1 Highway Services make the following comments (09.12.2021):

" Highways Development Control notes that this facility has operated as a temporary car park for a number of years with an acceptable layout and without issue. It acknowledges an earlier consent for a multi storey car park associated with an office development under PA16/00835/B and that use as a car park may be considered fitting. Nonetheless, there is no sign of any office or other use coming forward.

HDC expresses concern at the number of and continuance of renewals given the directive against such development set out in the "Reform of the Planning System - Programme for Government 2016 - 2021" and the recommendations of the Report of the Select Committee of Tynwald on the Development of Unoccupied Urban Sites (2017-2018) and that the planning condition under PA19/00734/C required car parking operations to cease on 20 September 2020. Additionally, this proposal is at odds with the intent to develop brownfield sites and reduce car based travel into central Douglas. Alternative plans could have been considered in the interim period. Responsibilities on maintenance to the demise do not abate on cessation of uses, and the repair to the boundary wall could have been arranged at least if not undertaken.

Accordingly, HDC raises opposition to this proposal. If permitted, it would represent an unsustainable form of development contrary to the COMIN directive and spirit of IOM Strategic Plan, Transport Policy 7.

Recommendation: 0"

6.2 Douglas Borough Council has made the following comments (16.12.2021):

"Douglas Borough Council has now considered the above planning application to which we would like to make the following comments.

The Council considers that the repairs to the church wall and the application to continue the use of the 22 parking spaces are separate issues.

With regard to the request to extend the use of the carpark for a further 3 years, the Council objects to this proposal on the following grounds:

Isle of Man Strategic Plan 2016 Strategic Policy 1 - Development should make the best use of resource:

- (a) Optimising the use of previously developed land, redundant buildings, unused and underused land and buildings, and reusing scarce indigenous building materials;
- (b) Ensuring efficient use of sites, taking into account the needs of access, landscaping, open space(1) and amenity standards

The Council is of the opinion that the continued use of the site as a temporary carpark would be contrary to the above policy.

The Council also gave consideration to the feedback received from the Improving the Planning System consultation. A key element of this being that it is preferable for unused brownfield sites

to be developed as opposed to becoming carparks some of which are considered to have a negative impact upon the surrounding townscape.

The Council has also given weight to the Council of Ministers' approved Action Plan to incentivise and support site redevelopment and that planning approval for temporary car parks should not be given for more than two years. This site has previously had planning approval for a temporary car park and the Council objected to the last application to have this extended.

If the Planning Committee resolves to permit this application the Council would ask that any permission granted should be conditional on improvements to upgrade the surface of the carpark with tarmac (or similar) in order to improve its visual appearance and reduce the growth of weeds/vegetation.

The Council has no objection to the repairs to the wall and, if this is possible without planning consent, would wish to see the repairs carried out as soon as possible."

7.0 ASSESSMENT

7.1 The principle issues with the application are the land use zoning & principle and whether the use of the site on a temporary basis for car parking is acceptable and the potential visual impact.

The land use zoning / use of site & principle

7.2 The proposed use, does not fit with the uses outlined within the Area Plan for the East. It is therefore not in accordance with the land use designation of the Area Plan for the East.

7.3 The use of brownfield sites for temporary uses raises various questions - the extent that the use of the site as a temporary car park discourages investment in its more permanent development, the likely condition of the site in the interim if approval is not given for a temporary use and the extent to which the latter outweighs the former. The answers to these questions are to some extent conjecture. However, the recently adopted Council of Ministers policy gives a firm view as to how these issues might be considered. Therefore the issue is whether there are exceptional circumstances which would indicate that the 'normal' position as set out in the policy should not be followed.

7.4 While the applicants have outlined the history of the site and why no development has not been undertaken. Further a similar application was approved in September 2019 (19/00734/C) which considered the adopted Council of Ministers policy. At that time the Planning Committee report stated:

"Whilst planning approval was granted relatively recently for the temporary use of the site for car parking, this was for a single year (proposed as such) and since then, Government has published the findings of a Select Committee which supports the development of brownfield over greenfield land development and the Reform of the Planning System report where the Council of Ministers direct that there should normally be a presumption against the use of vacant sites for temporary car parks. It is important to note that the reason for the direction relates to the desire to ensure faster brownfield site redevelopment and encourage socio-economic development and the consideration that temporary car parks obstruct this objective.

The application is slightly different from other recent proposals for temporary car parks where the operators were running a business where others paid to use the parking spaces: here the car park is owned by the user. A refusal to allow the continued use of this site as a temporary car park could be more likely to encourage the owner to develop it than an approval as it would need to find alternative car parking facilities for its staff which are likely to come at a financial cost. However, if the applicant is considering how to develop the site - i.e. whether to implement the currently approved scheme or to develop in an alternative form, it is not likely

that a refusal would be a significant element in progressing the development of this site any faster than if the current application were refused.

It is important that the proposed period of use is only one year which would not be inconsistent with the timescale of the two recent approvals for car parks on South Quay notably due to this being a period in which a significant amount of public car parking is not available through the redevelopment of the promenade (although much of this area is usually subject to two hour restrictions which would not suit those looking for all day parking). This current time is therefore a period which is not considered to be "normal" when referring to the COMIN direction. The refusal of this application is not likely to result in any change to the appearance of the site and whilst the local authority has power under the Local Government (Miscellaneous Provisions) Act 1984 to address open land which is in a condition which is detrimental to public enjoyment through its appearance, in this case, this is one of a number of sites in the immediate area which have been cleared and are devoid of structures, some of which are being used as temporary car parks. The fact that the Central Douglas Masterplan refers to a potential need for car parking in this area is also a material consideration."

7.5 It is noted since the last approval (19/00734/C) that the planning approval for the multi storey car park (17/00169/B) has now expired and there are no extant planning approvals on this site.

7.6 As outlined by the applicants soon after the permission of the last application in September 2019 Covid pandemic occurred, which has had financial implications and also changed how the office environment works. Accordingly, given comments made in the previously application (still relevant), previously approvals and especially as the site would be used by the applicants (rather than rented out to other parties) and as the last full permission on the site was for a car park; it is considered this application would meet the Council of Ministers Policy which does give some flexibility by stating "should not normally be given for brownfield sites to be used as temporary car park".

7.7 It is therefore considered that the proposal would comply with the aims of the Council of Ministers Policy. Whilst the applicants have asked for a period for three years, the Planning Committee is able to give perhaps 1 or 2 years, which may be worth of consideration to give the applicants still sufficient time to submit a new application for the site.

The potential visual impact

7.8 While the site remains as a temporary car park; the fact remains the site visually does not add to the character or street scene. However, with its dark coloured gravel finish and wooden railing fence around the boundaries, the site isn't un-kept or significant detrimental compared to some temporary park sites, which generally just re use the old concrete floor slabs of the previously demolished buildings etc. It is noted that the Local Authority have sought the site to have tarmac laid to improve the visual appearance of the site, as there are some weeds etc. growing through. This is potentially given the site hasn't been used as a car park for a few years. However, this maybe a consideration for the Planning Committee especially if granting a period of more than one year.

7.9 There are no concerns with the works relating to the repairing of the boundary wall. The finish will result in a Manx stone walls on both the application side of the wall (matching existing) and the St Georges Church side of the wall.

8.0 CONCLUSION

8.1 Overall, it is concluded that there is sufficient justification in this case; again, to approve the use of this site as a temporary car park until 2025. By then a new scheme or could be implemented or the Department will be in a position to resist any further extension of the

temporary car park use of this site. This was stated by the last approved application; however given the Covid pandemic it is considered reasonable to allow the applicants perhaps a final chance to develop the site.

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.

PLANNING AUTHORITY AGENDA FOR 28th March 2022

Item 5.5

Proposal : Conversion of building into 5 residential units with associated parking

Site Address : Stanley House
Second Avenue
Onchan
Isle Of Man
IM3 4LT

Applicant : Mr Nick Cooper

Application No. : 22/00155/B- [click to view](#)

Principal Planner : Mr Chris Balmer

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. No development shall take place until full details of soft and hard landscaping works have been submitted to and approved in writing by the Department and these works shall be carried out as approved. Details of the soft landscaping works include details of new planting (including tree planting) showing, type, size and position of each. All planting, seeding or turfing comprised in the approved details of landscaping must be carried out in the first planting and seeding seasons following the completion of the development or the occupation of the dwelling, whichever is the sooner. Any trees or plants which die or become seriously damaged or diseased must be replaced in the next planting season with others of a similar size and species. Details of the hard landscaping works include footpaths and hard surfacing materials. The hard landscaping works shall be completed in full accordance with the approved details prior to the first occupation of the dwelling hereby permitted.

Reason: To ensure the provision of an appropriate landscape setting to the development.

C 3. 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 4. 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 5. 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 fences, gates, walls or other means of enclosure shall be erected or placed within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a highway, without the prior written approval of the Department.

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

C 6. Prior to the occupation of the development hereby approved, the refuse store(s) shall be provided in accordance with the approved plans and shall be permanently retained thereafter and solely for the purpose of refuse storage.

Reason: In the interests of the appearance of the development and of the amenities of the area.

C 7. Prior to the occupation of the development hereby approved, the secure cycle store(s) shall be provided in accordance with the approved plans and shall be permanently retained thereafter and solely for the purpose of cycle storage.

Reason: To ensure adequate cycle provision in lieu of reduced car parking standards.

Reason for approval:

Overall, the principle of residential use is acceptable on this site and the use would not have a significant impact upon the visual amenities of the street scene. Further the site is within a sustainable location within Onchan Village and each dwelling would have access to a single parking space each and potential two secure bike spaces. It has also been demonstrated that the reduced level of parking will not result in unacceptable on street parking in the locality. Finally, it is considered the outlook from the new dwellings and general living standards are appropriate. Accordingly, it is considered that the planning application would be comply to General Policy 2, Transport Policy 7 and Housing Policy 17 of the Isle of Man Strategic Plan 2016 and the Residential Design Guide 2021.

Interested Person Status – Additional Persons

None

Planning Officer's Report

THE PLANNING APPLICATION IS BEFORE THE PLANNING COMMITTEE AS THE LOCAL AUTHORITY HAS OBJECTED TO THE APPLICATION CONTRARY TO THE RECOMMENDATION

1.0 THE SITE

1.1 The application site is the curtilage of Stanley House a single storey detached building located on the north eastern side of Second Avenue, Onchan. The building was previously used as office accommodation. The building in terms of appearance is a 1960/70's bungalow, having a more domestic appearance, rather than a commercial building.

1.2 To the east of the site is a single storey workshop building and to the west is factory building and associated area parking. To the north east of the site is an un-development parcel of land and to the south is a residential estate.

2.0 THE PROPOSAL

2.1 The application seeks full approval for the conversion of building into five residential units. Each unit would have one off road parking spaces along part of the eastern and southern boundaries of the site. The dwellings would accommodate two bedrooms, a bathroom and an open plan living/kitchen area. Alterations to the front and rear windows are proposed and a new bin store is also proposed along the southern boundary (road side elevation) and a bicycle shed to the eastern boundary.

2.2 landscaping and hedge plants is also proposed fronting Plots 3, 4 & 5.

3.0 PLANNING HISTORY

3.1 The previous planning application is considered relevant in the determination of this application;

3.2 Conversion of building into five residential units - 21/01100/B - REFUSED on the following grounds;

"R 1. It is not considered the dwellings would have "pleasant clear outlook, particularly from the principal rooms" and therefore contrary to Housing Policy 17 and General Policy 2 (h) which requires the dwellings to "Provides satisfactory amenity standards in itself..."

R 2. There is insufficient evidence to demonstrate that the proposed parking layout/size would provide useable and sufficient parking spaces, therefore contrary to General Policy 2 and Transport Policy 7."

4.0 DEVELOPMENT PLAN POLICIES

4.1 The application site is within an area designated as "Predominantly Residential Use" and a Comprehensive Treatment Area 5 under the Area Plan for the East 2020. The site is not within a Conservation Area.

4.2 The following policies in the Isle of Man Strategic Plan 2016 are considered relevant:

4.3 Housing Policy 4 states: New housing will be located primarily within our existing towns and villages, or, where appropriate, in sustainable urban extensions(1) of these towns and villages where identified in adopted Area Plans: otherwise new housing will be permitted in the countryside only in the following exceptional circumstances:

- (a) essential housing for agricultural workers in accordance with Housing Policies 7, 8, 9 and 10;
- (b) conversion of redundant rural buildings in accordance with Housing Policy 11; and
- (c) the replacement of existing rural dwellings and abandoned dwellings in accordance with Housing Policies 12, 13 and 14.

4.4 General Policy 2 states: "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 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."

4.4 Housing Policy 17 states: "The conversion of buildings into flats will generally be permitted in residential areas provided that:

- (a) adequate space can be provided for clothes-drying, refuse storage, general amenity, and, if practical, car-parking;
- (b) the flats created will have a pleasant clear outlook, particularly from the principal rooms and
- (c) if possible, this involves the creation of parking on site or as part of an overall traffic management strategy for the area."

4.5 Transport Policy 4 states: "The new and existing highways which serve any new development must be designed so as to be capable of accommodating the vehicle and pedestrian journeys generated by that development in a safe and appropriate manner, and in accordance with the environmental objectives of this plan."

4.6 Transport Policy 7 states: "The Department will require that in all new development, parking provision must be in accordance with the Department's current standards.

The current standards are set out in Appendix 7."

Area Plan for the East 2020:

4.7 Comprehensive Treatment Area 5 - Onchan Schools (area shown on Map 6) The site comprises two schools, a factory and some residential streets. The highway network is substandard and needs re-configuration. Re-development of the area could rationalise the uses, make a more efficient use of land and allow for schools to expand as is necessary. There would remain the opportunity for employment uses and if appropriate the redevelopment of the existing houses as part of a regeneration scheme.

CTA Proposal 5 - Onchan Schools (Treatment Plan) Redevelopment of this area for education, light industrial and residential purposes would be supported. Any redevelopment would need to be subject to a development brief setting out the various uses, highway and drainage improvements, public realm enhancement and phasing of development.

4.8 Urban Environment Proposal 2 states; "All new development and regeneration proposals within the Comprehensive Treatment Areas and Douglas Town Centre must demonstrate design elements to provide and enhance areas of public realm through sensitive and context-specific design."

4.9 Residential Design Guide 2021.

5.0 CONSULTATIONS

5.1 DOI Highway Services (on 11.03.2022) making the following comments:

"Previous planning application 21/01100/B was a similar proposal that was seeking to convert the existing building into five dwellings. The application was refused for two reasons including the parking arrangements being insufficient in size to demonstrate accordance with General Policy 2 and Transport Policy 7.

The applicant/agent has provided visibility splays from the access to the site of the conversion. Second Avenue is subject to a 20mph speed limit and as such has a minimum visibility requirement of 25m. In addition, being a low speed environment and within a residential cul-de-sac area with no through roads, it is not expected that there will be a significant volume of traffic passing the site. In this instance a 2m setback would be acceptable.

The visibility splay provided has used a 2.4m setback. To the left on exit, visibility has been drawn to 26m. The access is located next to a bend in the road to the eastern side and as a result visibility can actually be achieved for a significant distance down the road.

To the right on exit, visibility has been drawn to the offside kerbline. A correct visibility splay should be drawn to the nearside kerbline, especially in this instance as the oncoming traffic would be in the nearside lane. In addition, the visibility splay to the right on exit has been drawn up to the edge of the access only, further limiting the visibility achievable. The applicant has indicated with a redline that they own the land up the boundary with the neighbouring property. In this case, the visibility splay could have been drawn over the land that the applicant owns providing there is no obstruction above the height of 1.05m.

The application form has indicated that there will be an overall reduction in the number of parking spaces on the site, from eight to five. As a result it is expected that the number of vehicular movements in and out of the site will also reduce. The proposal would not see an intensification of use of the access and the actual achievable visibility if drawn correctly would meet the minimum requirement for the road. The use and arrangements of the existing access is acceptable to Highways.

Five parking spaces of dimensions 5.5m x 2.8m have been provided. 2.8m is adequate width for the parking of vehicles, including larger SUV's in bays, however a minimum width of 6m is required for the spaces to allow for convenient and safe manoeuvring. Parking has been provided at one space per dwelling, falling below the Strategic Plan parking requirement of two spaces per dwelling. However, the proposal does include the provision of bicycle parking at the minimum requirement of one space per bedroom. The proposal site is located a short walk from School Road which benefits from bus provision. The main retail centre of Onchan providing amenities such as shops and services is within a walkable distance from the proposal site. The proposal falls below the Strategic Plan minimum requirement for parking provision, however full bicycle parking provision and alternative means of travel are readily available to the occupant of the dwellings. Highway Services accept the relaxation the parking requirement for this proposal to one space per dwelling.

Highway Services request the revision of altering the parking bay size to a minimum of 6m in length to allow for safe and convenient manoeuvring.

Recommendation: Request additional information/revisions."

5.2 Onchan Commissioners (10.03.2022) have objected on the ground of inadequate parking provision and the negative impact on the neighbouring properties due to highway constraints.

5.3 Forestry, Amenities and Lands (DEFA) have objected to the application on the following grounds (04.03.2022);

"I note that a similar application (21/01100/B) was recently refused on the grounds that 'It is not considered the dwellings would have "pleasant clear outlook, particularly from the principal rooms" and therefore contrary to Housing Policy 17 and General Policy 2 (h) which requires the dwellings to "Provides satisfactory amenity standards in itself...". The attached photos show that the trees to the west of the building are likely to be viewed as 'overbearing' if this building was converted to a residential use. The photo taken at the rear of the existing building shows how low light-levels are, even when the trees are not in leaf. If this application is approved it is likely to lead to pressure in the future for these trees to be removed.

This concern is a result of the position of the building in relation to the trees and existing site levels, so it is difficult to see how it could be addressed. For this reason the Directorate is left with no option but to object to the application.

If the application is approved in spite of this objection, I would recommend that tree-related conditions are not required. Due to the nature of the works that likely to take place on this site to implement the proposed conversion, and the fact that the trees are on a bank above the level of the building, I think the risk of damage occurring during the construction process would be very low. A tree protection plan is, therefore, not considered necessary."

6.0 ASSESSMENT

6.1 The following issues are relevant in the determination of this application; (a) principle of developing the site for residential purposes; (b) potential impact upon highway safety/parking provision; (c) potential impact of the works to the street scene; and (d) potential private amenity for future occupants.

PRINCIPLE OF DEVELOPING THE SITE FOR RESIDENTIAL PURPOSES

6.2 As stated earlier in this report, the application site is located within a wider area of land that is designated as predominantly residential use under the Area Plan for the East. Previously the site and surrounding area was designated as "Predominately Industrial use" under the Onchan Local Plan which has not been superseded with the Area Plan for the East.

6.3 The new plan which includes this site and other sites in the area under "Comprehensive Treatment Area 5 - Onchan Schools (Treatment Plan)". This indicates that there could be re-development of the area could rationalise the uses, make a more efficient use of land and allow for schools to expand as is necessary and there would remain the opportunity for employment uses and if appropriate the redevelopment of the existing houses as part of a regeneration scheme.

6.4 Where this site/neighbouring sites would form part of the "Onchan Schools" redevelopment is unclear as no planning application have been submitted which indicates how the schools could be development. However, the principle of using this site for residential is considered acceptable given its land use designation. However, this is not an automatic reason to approve the application as there other issues outlined need to be considered also.

POTENTIAL IMPACT UPON HIGHWAY SAFETY/PARKING PROVISION

6.5 The five dwellings would require two off road parking space. The proposal would have five off street parking spaces within the site and secure cycle storage for 10 bikes. The original application had two spaces per dwelling; however, concerns of how these spaces would be actually be used and impacts upon outlooks have resulted in the applicant to reduce the amount of car park spaces. The applicants have provided a parking survey of the area over a period of 8 days (24th November till Wednesday 1st December) at 7am and 7pm. This suggest during these periods there is little parking in the vicinity of the site. The applicants have also indicated

that the proposed use would likely reduce the level of parking and traffic during the day time period compared the industrial use of the site.

6.6 Comments from Highway Services that the length of the parking spaces (proposed to be 5.5m) do not meet the new standards of 6m in length are noted. However, while two of the spaces can easily be altered to achieve this, the three spaces along the eastern boundary would mean the loss of front garden to the properties. In this case, given 5.5m is still a reasonable size and the site already exists i.e. not a new build, it is considered the spaces as proposed are acceptable in this case. For information a Range Rover has a length of 5m, Ford Mondeo has a length of 4.8m, a Mini has a length of 3.8m and a Fiat 500 has a length of 2.9m.

6.7 Overall, it is considered the units a small two bed units and while they do not meet the parking standards, it is considered a relaxing in this case can be allowed, given each unit would have a single parking space, have access to secure bike storage, within walking distance of Onchan Village (shops/services) and public transport links. Further, the applicant has demonstrated that the reduced level of parking will not result in unacceptable on street parking in the locality.

POTENTIAL IMPACT OF THE WORKS TO THE STREET SCENE

6.8 In this case there are no significant changes proposed and the use of the site as residential will not have an impacts upon the visual amenities of the street scene. It is considered the overall, scheme namely the external proposals would be a betterment to the visual appearance of the street scene.

POTENTIAL PRIVATE AMENITY FOR FUTURE OCCUPANTS

6.9 As outlined within Housing Policy 17 each dwelling needs to have a "pleasant clear outlook, particularly from the principal rooms". The previous application raise a concern on this matter. In this case from the open plan living room/kitchen dinner all of which are served by two windows to the front (east) elevation. It is considered the landscaping to the front of plots 3, 4 & 5 would result in a pleasant environment and beneficial to the occupants. These plots being closest to the neighbouring building to the east were the dwellings which raise most concern previously. This application overcomes these concerns. The outlooks to plots 1 & 2 are not as beneficial to the future occupants; having views of the cycle shed and car parking and therefore is not ideal. However, there is a gap of just under 5m between the windows and these features and would still have a reasonable outlook. It isn't ideal, but it is consider a reasonable compromise.

6.10 Overall, it is considered the dwellings would have "pleasant clear outlook, particularly from the principal rooms" and therefore complies with Housing Policy 17 and General Policy 2 (h) "Provides satisfactory amenity standards in itself...".

IMPACTS UPON TREES

6.11 It is noted the concern raised that the trees to the west of the building are likely to be viewed as 'overbearing' if this building was converted to a residential use and may result in pressure to be removed. However, these windows are small in size and serve bedrooms only (not a primary habitable room). Further, this is an existing building and potential impacts/conflicts are potential already existing, albeit residential has the potential to cause greater concern. Overall, it is considered the benefits of the proposal outweigh the potential concerns of tree loss, which are not substantial in size or have a significant visual amenity value. If these trees impacted the main living rooms (primary habitable rooms) there would likely be more of a concern; however, they don't in this case.

7.0 CONCLUSIONS

7.1 Overall, the principle of residential use is acceptable on this site and the use would not have a significant impact upon the visual amenities of the street scene. Further the site is within a sustainable location within Onchan Village and each dwelling would have access to a single parking space each and potential two secure bike spaces. It has also been demonstrated that the reduced level of parking will not result in unacceptable on street parking in the locality. Finally, it is considered the outlook from the new dwellings and general living standards are appropriate.

7.2 Accordingly, it is considered that the planning application would be comply to General Policy 2, Transport Policy 7 and Housing Policy 17 of the Isle of Man Strategic Plan 2016 and the Residential Design Guide 2021.

7.3 It is recommended that the planning application be approved.

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.

8.3 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 28th March 2022

Item 5.6

Proposal : **Erection of two storey extension to rear elevation and the creation of rear garden terracing**

Site Address : **Cilcen**
 The Hope
 St. Johns
 Isle Of Man
 IM4 3AT

Applicant : **E & J Properties Ltd**

Application No. : **20/01095/B- click to view**

Planning Officer : **Miss Lucy Kinrade**

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 external rendered walls of the extension and the rear landscape terrace walls hereby approved shall be finished to match the colour of the main house.

Reason: for the avoidance of doubt as the finished colour of the extension was not clarified on the submitted drawings and the existing house is painted in a light/white colour in the interest of visual and neighbouring amenity.

C 3. Within 6 months of the extension hereby approved coming into use, the rear landscape terracing levels hereby approved shall be constructed in accordance with the details show in drawing numbers 982.02B and 982.01F and retained thereafter.

Reason: the application has been assessed on the basis of these works being completed in the interest of neighbouring amenity.

Reason for approval:

It is considered that the proposed works would have an acceptable visual impact in terms of Housing Policy 15, and on a fine planning balance due to the coupled nature of the extension and landscaping terracing works would be within the bounds of acceptability in terms of amenity impact on the living conditions of the neighbours to warrant support in line with General Policy 2 (b, c, and g) and the principles of the Residential Design Guide 2021. A suitably worded condition will ensure the external finish of the extension and rear garden walls match the main house and that the landscaping terrace works are completed within 6 months of the extension coming into use.

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):

- o The owners of 'Slaynt as Shee' also known as 'Nelson House' 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 following Government Departments should not be given Interested Person Status on the basis that although they have made written submissions these do not relate to planning considerations:

- o DOI Flood Risk Management

Planning Officer's Report

THE APPLICATION IS BEFORE THE COMMITTEE AT THE REQUEST OF THE HEAD OF DEVELOPMENT MANAGEMENT WHO CONSIDERS THAT THE PROPOSAL OUGHT TO BE DETERMINED BY THE COMMITTEE AS PER PART (L) OF THE STANDING ORDERS 2021/04.

THE SITE

1.1 The application site represents the curtilage of a small two storey mid terrace traditional Manx Cottage situated on the eastern side of the A3 and just south of The Hope, St Johns. The cottage fronts directly onto the highway with a front door and window at ground floor and two windows above.

1.2 At the rear is a garden area, the drawings submitted for the application indicate a previous single storey extension on the rear elevation but during a site visit it was evident that this extension had already been demolished and that there had been some excavation and re-grading works to the rear garden area. The lower level of the slope is shown as 101.20 above datum and the upper level 103.20 above datum.

1.3 The application dwelling 'Cilcen' is the middle of three cottages forming the small terrace. Adjoining the northern side is 'Crescent Cottage' who has a two storey pitched roof rear extension projecting approx. 4.5m into the rear garden. The landownership arrangement for the dwellings means that there is a 1.2m strip between 'Cilcen' and 'Crescent Cottage' that belongs to Crescent Cottage.

1.4 On the opposite side adjoins 'Slaynt as Shee' also known as 'Nelson House', this cottage has a small walled yard directly along the boundary with 'Cilcen'. Stepped 4m back from this boundary are two rear extensions. The rear yard of 'Slaynt as Shee' is shown on dwg 982.02 to measure 1.5m deep nearest Cilcen and increasing to 2m deep, a kitchen door and kitchen window open onto the yard and a bedroom window at first floor. From the yard is an external staircase to leading to a roof area above the attached garage on the gable side of 'Slaynt as Shee'.

PROPOSAL

2.1 Approval is sought for the erection of a new two storey rear extension. The extension is to be 4.4m wide nearest the house, stepping to 3.2m wide nearest the rear garden. The furthest projection will be 3m from the rear elevation and along the boundary with 'Slaynt As Shee'. The extension is to have eaves of 4.5m matching the main house, and the central ridge will sit

800mm below the ridge of the main house. The rear facing gable is to have a window and door at ground floor and window above. A first floor window is proposed on the stepped back elevation.

2.2 Additional drawings for the application were provided to correct a drawing error for the back door and also to clarify the landscaping works in respect of the cutting out and re-grading of the rear sloping garden which is proposed to have a split level patio area with the lower level 101.05 above datum and the upper level 102.25 above datum.

2.3 Another subsequent drawing 982.01F was submitted to correct red line issues for the site and to clarify the depths of the yard of neighbouring property. This drawing was received on 09/02/2022.

2.4 The proposed extension and rear garden walls are all proposed to be finished in a painted render. Although no other details are given. The main house is painted white.

PLANNING HISTORY

3.1 There are no previous planning applications for the site considered relevant in the assessment and determination of this application.

PLANNING POLICY

4.1 The application site is located within an area identified as being High Landscape Value or Coastal Value and Scenic Significance by the 1982 Development Order. The site is close to but falls outside of the St Johns Local Plan Area and on land not designated for development. Within the Isle of Man Strategic Plan 2016, Housing Policy 15 is considered relevant where development to traditional styled properties should respect the proportion, form and appearance of the existing dwelling and only exceptionally will permission be granted for extensions measuring more than 50% in terms of floor space (measured externally). The general development standards listed in General Policy 2 are also relevant along with the recently released Residential Design Guidance 2021 particularly those parts on good neighbourliness, rear extensions and outlook.

REPRESENTATIONS

Copies of representations received can be viewed on the Government's website. This report contains summaries only.

5.1 Patrick Commissioners - no objection (16/10/2020) and no further comments dated 27/01/2022. A deferral was requested following the recirculated red line drawing but no comments yet have been received.

5.2 Department of Infrastructure Highway Services - no highways interest (20/10/2020, 01/04/2021 and 15/02/2022).

5.3 Department of Infrastructure Flood Risk Management - no interest (14/04/2021)

5.4 There have been two comments received from the owners of adjoining property Slaynt as Shee (also known as Nelson House) on 30/03/2021 and 10/05/2021. Their comments have been summarised as follows:

- o Slaynt as Shee has very little amenity space at present with the rear outlook and yard defined by a retaining wall 1.5m from the rear elevation which gets sun early morning to late afternoon;
- o The two storey extension would have an insensitive impact by means of loss of amenity in terms of light, privacy and openness;

- o The previous small extension had little impact, but proposal now would be significantly larger in height and projection, having an unacceptable and overbearing impact;
- o They contend the agent's comments in respect of the sun light to 'Slaynt as Shee' and do not agree that because there is already reduced light that the removal of further light will be insignificant;
- o The proposal would significant reduce direct light to the first floor bedroom windows;
- o They would support a single storey, flat roof extension projecting no more than 2.5m from rear elevation but strongly object to two storey.
- o There appears to be works already undertaken at the site and ground levels considerably reduced with retaining walls and drainage installed.
- o They are also concerned that development will encroach across the rear of their rear boundary.

ASSESSMENT

6.1 There are two key assessments in the case of this application, the visual impact on the existing dwelling in respect of HP15 and GP2 (b and c) and the amenity impact of the neighbours in respect of GP2 (g) and the principles of the Residential Design Guidance 2021.

Visual Impact

6.2 The proposed extension would result in an 18sq m increase of floor area which would be within the 50% guide line set out within Housing Policy 15, and its general form, style, design and material finish would not be out of keeping with the existing traditional dwelling and its location at the rear would limit public view. The proposed extension by reason of its siting, style, design and overall appearance would have an acceptable visual impact on the existing dwelling complying with those relevant parts of Housing Policy 15 and parts B and C of General Policy 2. Those landscaping works contained within the rear garden area would equally have an acceptable visual impact minded of the established residential context of this terrace of properties and the surrounding cluster of residential dwellings and would not spread harm to the wider AHLV.

Amenity Impact

6.3 This element of the application has been the most difficult to consider given the arrangement of the terrace and the layout of their respective amenity garden spaces.

6.4 The application dwelling sits in the middle of the terrace with a fairly narrow front and rear elevation, but does have a large rear garden which slopes upwards to the rear boundary and which also wraps around to the south side and behind the rear of 'Slaynt as Shee/Nelsons House'. The current application seeks approval for two parts; the extension of the house and the landscaping works in the rear garden.

6.5 The agent indicates that both elements of the application work part and parcel with each other in creating an increased level of openness and outlook at the rear so as to help mitigate the impact of the extension. The works also assisting in drainage issues at the rear of the properties.

6.6 The Residential Design Guidance 2021 outlines that two storey extensions to terraced or semi-detached properties can have the potential for the greatest concern on the amenity of the neighbours, particularly where there is an unacceptable tunnelling effect or impact on ground-floor living rooms or kitchens (Primary Windows). It indicates that even single storey extensions are unlikely to be supported if projecting more than 3m from the back of the house.

6.5 Proposed here is a 3m projecting two storey extension which is to sit right along the boundary of the neighbour 'Slaynt as Shee/Nelsons House', as explained in their letters of objection there is a back kitchen door and window opening into their yard area which is bound

from the application site by a retaining wall approx. 1.6m tall. 'Slaynt as Shee/Nelsons House' has extensions stepping across their rear including a set of steps along the rear wall leading to a first floor roof terrace which wraps around their south facing end gable.

6.7 There is clearly a reduced outlook already from the existing rear elevation of 'Slaynt as Shee/Nelsons House'. The proposed extension would sit directly along the boundary, projecting 3m and standing 4.5m tall to eaves. This falling in line with the general rule of thumb of the Residential Design Guide 2021 but given the close knit arrangement it is undeniable that the proposed extension will be prominent from the neighbours rear outlook. But in taking into consideration the orientation of the dwellings with the rear elevations facing eastwards and with the application dwelling and its proposed extension sitting on the northwards side (out of sunpath) and when coupled with the landscaping works which seek to create a more open area to the rear of both properties helps to mitigate the extension to such a degree which is considered to be, in this case, within the bounds of acceptability and not so adverse so as to significantly harm or detriment the general living conditions or amenity of the neighbours to such an extent as to warrant a refusal.

6.8 External finishes and colour can affect visual ambience and outlook. This is clearly a close knit terrace situation where perhaps darker coloured materials or finishes could contribute to an overall darker outlook. This is already a very balanced situation and one which could be tipped if a dark cladding or similar dark finish was applied to the works. The application drawing indicated painted render finish to the extensions but no other details are provided. Minded that the existing house is painted white it is considered necessary to add a suitably worded condition in this case requiring that all external wall elevations to the extension and the rear garden walls be painted to match the main house which is white.

Other matters

6.9 Although the Commissioners have most recently requested a deferral, given that the overall nature of the proposed extension and landscaping works have not changed since their original comments received 21/01/2022 that it would be unreasonable to delay the determination of the application to wait for these comments to be submitted.

CONCLUSION

7.1 It is considered that the proposed works would have an acceptable visual impact in terms of Housing Policy 15, and on a fine planning balance due to the coupled nature of the extension and landscaping works would be within the bounds of acceptability in terms of amenity impact on the living conditions of the neighbours to warrant support. A suitably worded condition will be added to reflect the external finish of the extension and rear garden walls. A further condition will ensure the landscaping terrace works are completed within 6 months of the extension first coming into use.

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 28th March 2022

Item 5.7

Proposal : **Erection of detached garage to the rear (Retrospective) replacing previous timber shed.**

Site Address : **Ellan Vannin
Main Road
Ballaugh
Isle Of Man
IM7 5EF**

Applicant : **Mr Brian McNabb**

Application No. : **22/00061/B- click to view**

Planning Officer : **Mrs Vanessa Porter**

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.

Reason for approval:

The proposal complies with Housing Policy 15, Transport Policy 7 and Environment Policy 10 of the Isle of Man Strategic Plan 2016.

Interested Person Status – Additional Persons

Department for Infrastructure's Flood Risk Management Team should be afforded interested person status as they are a Government Department which has raised material planning considerations.

Planning Officer's Report

THIS APPLICATION IS REFERRED TO THE COMMITTEE AS IT COULD BE CONSIDERED A DEPARTURE FROM THE DEVELOPMENT PLAN AND IS RECOMMENDED FOR APPROVAL

THE APPLICATION SITE

1.1 The application site is within the curtilage of Ellan Vannin which is an end terraced two storey traditional dwelling situated to the South East of Main Road, Ballaugh. To the East of the property is an access to the rear which services several properties.

1.2 To the rear of the property is a paved driveway of which there is an access road to the neighbouring property and a parcel of land which is the subject of this application. Upon the parcel of land there is a single storey single garage.

THE PROPOSAL

2.1 The current planning application seeks retrospective approval for the erection of a single storey single garage which measures 6m by 3.59m, with an overall height of 3.875m. The garage has a slate roof, rendered walls and uPVC windows to match the existing property.

PLANNING HISTORY

3.1 The previous applications are not relevant to the assessment of this application.

PLANNING POLICY

4.1 The site lies within an area zoned as "not for development" and an "Area of High Landscape or Coastal Value and Scenic Significance" on the 1982 Development Plan, North Map. The site is not within a Conservation Area but is within a Surface Water - High Likelihood Flood Risk Zone.

4.2 Given the nature of the application, the land designation and the traditional form of the property. Housing Policy 15 is the key policy and seeks that extensions of traditionally style properties must respect the proportion, form and appearance of the existing property.

4.3 There are a number of other relevant policies specific to this application, Strategic Policy 5 which seeks that new development should make a positive contribution to the environment of the Island, General Policy 2 sets out general development control standards in connection with the Residential Design Guidance, General Policy 3 states that development will not be permitted outside of those areas which are zoned for development on the appropriate Area Plan other than a number of stated exceptions, which do not include the extension of existing dwellings, Environment Policy 1 seeks to prevent development which would adversely affect the side other than in exceptional circumstances, Transport Policy 7 in accordance with Appendix 7 which sets out parking standards and Environment Policy 10 which states that a Flood Risk Assessment is required for sites within a Flood Risk Zone.

4.4 Furthermore consideration shall also be given to Community Policies 7 and 11 in respect of reducing outbreak of fire and preventing criminal activity and Infrastructure Policy 5 in respect of water conservation.

4.5 Other material considerations for this application is the Residential Design Guidance (2021) which, although focused on dwellings within settlements, does offer advice in relation to the impact on neighbours and also Planning Policy Statement 3/91 which provides guidance on the design of residential development in the countryside.

REPRESENTATIONS

5.1 The following representations can be found in full online;

5.2 No representation has been received from Ballaugh Commissioners at the time of writing this report.

5.3 DOI Flood Risk Management Division have considered the application and state, "FRA received and accepted." (22.02.22)

ASSESSMENT

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

- principle of development (GP3, EP1 and HP15);
- detail of design (GP2, HP15)
- impact on neighbouring amenity (GP2, g)
- highway matters (GP2, TP7)
- flood risk zone (EP10)
- other matters (RDG, CP7, 11 & IP5)

6.2 PRINCIPLE

6.2.1 In the first instance the principle of the development needs to be addressed. Ellan Vannin is situated on a site which is not designated for development and is a site which lies in the countryside where development is restricted, in order to protect the countryside for its own sake. Whilst General Policy 3 allows for some exceptions within the countryside the proposed garage does not fit within any of these categories.

6.2.2 Whilst there is nothing within the Strategic Plan on new development in the form of detached garages, there have been detached garages approved, in some instances where the garage would not have an undue impact on the countryside or undermine the rural character of an area. Furthermore the Permitted Development Order allows (subject to conditions) the erection of a double garage (6m x 6m); therefore there is a general acceptance to the principle of a garage to properties within the countryside (i.e. land not designated).6.2.2 In the case of this application, the garage is situated to the rear of the property and hidden from a public vantage point due to its location.

6.2.3 Whilst the principle in general is acceptable, it is required to see whether a garage on this site would be acceptable.

6.3 DETAIL OF DESIGN

6.3.1 The garage is situated to the rear of the property, to the West of the site, as such whilst views will be awarded to the neighbouring properties who use the rear access, the actual garage will not be seen from the public vantage point of Main Road.

6.3.2 The garage itself has materials which match the existing which means it does not detract from the overall traditional feel of the main dwelling and due to its size and materials respects the existing dwelling in proportion, form and appearance.

6.4 NEIGHBOURING AMENITY

6.3.1 With regards to neighbouring amenity, whilst there is a window situated to the South East of the proposal, this is not facing any of the neighbouring properties and as such it is deemed that any impact of the garage to the neighbouring properties would be minimal.

6.4 HIGHWAY MATTERS

6.4.1 Due to the location of the property and the location of the garage it is necessary to assess whether there would be an impact on the available parking.

6.4.2 The location of the garage is within a parcel of land which is separated by access road for neighbouring properties. When looking at the neighbouring properties this is land which is used as garaging and parking. The garage itself is large enough for one car parking space, with there being a paved area next to the property which can be used as another car parking space, as such there are the required two parking spaces available within the site as per Transport Policy 7.

6.5 FLOOD RISK ZONE

6.5.1 Due to the proposal being within a flood risk zone it is necessary to assess whether there would be any issues arising.

6.5.2 The garage is situated to the rear of the site and separated by a hard standing area, with no living space being within it, adding in the fact that DOI Flood Risk Management have received a flood risk assessment and are happy with the information given, there would be a limited impact from the works.

6.6 OTHER MATTERS

6.6.1 The proposed works is a garage to an already existing dwelling, as such the proposal is not expected to create any changes or new issues in respect of criminal activity or spread of fire. The proposal is increasing the surface as the garage is larger than the previous shed, the applicant has stated within the application form that any water run-off will be dealt with as per the existing arrangement. The proposed garage will not increase water usage of the dwelling and therefore there are no new issues in this respect.

CONCLUSION

7.1 The proposed extension is acceptable in terms of its form, mass and design by providing a suitable extension to an existing residential property and as such complies with Housing Policy 15, Transport Policy 7 and Environment Policy 10.

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 28th March 2022

Item 5.8

Proposal : **Erection of a dwelling**
Site Address : **Pound Lane Depot**
Castletown Road
Port St. Mary
Isle Of Man
IM9 5LT
Applicant : **Daryl Blake Construction Limited**
Application No. : **21/00857/B- click to view**
Senior Planning Officer : **Mr Jason Singleton**

RECOMMENDATION: **To REFUSE the application**

Reasons and Notes for Refusal

R : Reasons for refusal

O : Notes (if any) attached to the reasons

R 1. The proposal is not within a named settlement in accordance with the settlement hierarchy and would encourage unsustainable development. Accordingly it is contrary to Strategic Policy 1, 2, 3 and 10. Also Spatial Policies 1,2,3,4 of the Strategic Plan.

R 2. The proposal is not of a nature which would be supported in the countryside under those policies which set out the exceptional forms of development which would be allowed in the countryside. Furthermore, it has not been demonstrated that there is an overriding national need and a site for which there are no reasonable and acceptable alternatives. Therefore the proposal is considered to undermine General Policy 3 and Housing Policy 4, of the Strategic Plan, which seeks to protect the countryside for its own sake.

R 3. The application site is not zoned for development and is within an area of countryside. The creation of a new residential dwelling in an area not zoned for development would result in an inappropriate development in the countryside contrary to Environment Policy 1 of the Strategic Plan.

R 4. The design, size and scale of the proposed dwelling, and its finishes, are not sympathetic to the rural character of the area and is considered over development with an adverse visual impact that affects the character of the setting, contrary to Strategic Policy 5 and General Policy 2 (b & c) of the Strategic Plan.

Interested Person Status – Additional Persons

None

Planning Officer's Report

THE APPLICATION IS BEFORE THE PLANNING COMMITTEE AT THE REQUEST OF THE HEAD OF DEVELOPMENT MANAGEMENT

1.0 THE SITE

1.1 The site is a parcel of land which lies on the southern side of the Castletown Road (A5) which runs between Four Roads, Port St. Mary and Bay ny Carrickey, Rushen. The site has a frontage to the road of 11m and the site widens towards the rear boundary.

1.2 The site has stone walls along its frontage with sections of the site elevation partly enclosed in the stone which continues towards the rear elevation. The site is grassed and generally devoid of structures or features within.

1.3 The nearest adjacent properties are two residential dwellings to the west - Douval and Brook Cottage (both small bungalow with pitched roof and bookended with chimney stacks) and on the other side of the road, slightly to the east, is the Southern Civic Amenity site.

1.4 To the west of the application site is a public right of way / footpath U203 labelled on the Govt mapping as 'Pound Lane' that connects from Castletown Road and runs south and connects onto Beach Road. To the east/ south is agricultural field ref 414765 (10.4 acres) and to the north across the road field 414026 (3.95 acres) and to the east field 411610 (1.73 acres).

1.5 It is noted on the Government maps the site is adjacent to a small stream that runs underneath the highways which flows from north to south. The site is also identified on the DOI Flood risk maps as being a High risk flood zone (River) The highway to the front (north) is identified as also High Risk Flood zone (river and Tidal).

2.0 THE APPLICATION

2.1 Proposed is the erection of a dwelling house on the site. The property is characterised by a single storey attached garage (6.6m x 6.5m) at the front of the property with a hipped tiled roof and parking to the front and side (East). The dwelling house sits to the rear (South) and attached to the rear of the garage that has a slight contemporary style, in that is it one and a half stories tall and a footprint of 11.5m x 7.5m. The internal layout would provide to the ground floor a large living / dining room a separate kitchen and utility, W/C Porch and internal hallway. To the first floor accommodation within the roof space would offer three en-suite bedrooms. At first floor the two bedrooms on the gable ends would feature small metal balconies with glazed balustrade.

2.2 Externally the property would materially be finished with, Anthracite (dark grey) roof tiles and anthracite Upvc windows and doors with high performance glazing, Black garage door, dark grey stone cladding panels to the lower proportions and the remainder painted render and dark Upvc rain water goods.

2.3 The agent notes the "Existing culverted water course site is protected at a raised level of 250mm high over stream by a random stone wall along perimeter of site adjacent to water course... The existing lane to the west contains all the services".

2.4 Access to the site would utilise the existing entrance with modification to allow for the correct visibility splays (2.4m x 47m) in both directions and an entrance width of 7.0m wide. The hedgerow and boundary wall to be kept to below 1.05m to maintain clear sight lines for visibility and whilst the land is not owned by the applicant a third party agreement letter has been provided to support the application and maintenance of the laneway.

2.5 The owner of the site has provided a planning statement setting out; how they purchased the land from Government (DoI) as a storage compound and a parcel of land to the rear which has never been claimed for agricultural support... The land has been previously developed, noting the neighbouring dwellings, Douval and Brook Cottage and the Southern Amenity site... The proposals would be an improvement on the site and provide ample parking, turning provision, visibility splays for access and vehicle charging points...The propose home

would be an "Eco-House" and built to exceed thermal values, solar roof and air-source heat pumps to minimise carbon footprint - in line with Govt Policies... Consideration has been given to the overall massing and level of finishes to soften the appearance and minimise visual impact.

3.0 PLANNING POLICY

3.1 In terms of local plan policy, the site lies within an area designated on the Area Plan for the South as not for a particular purpose (white land) on Map 7 - Port Erin / Port St. Mary. Map 2 identifies the site as an area of Incised Slopes.

3.2 Within the written statement for the area plan for the south; the site or surrounding area is not specifically identified but being surrounded by agricultural land the overall objective in the landscape strategy is to preserve the existing rural character appearance and distinctiveness of the area.

3.3 The site is not within a Conservation area, there are no registered trees identified on site but the site is identified as being within High Risk Flood Zone (River and Tidal) on the DoI's Flood map hub.

3.4 The Isle of Man Strategic Plan 2016 contains the following policies that are considered specifically material to the assessment of this current planning application:

3.5 Strategic Policy 1; efficient use of land

3.6 Strategic Policy 2; new development to identified towns and villages

3.7 Strategic Policy 3: To respect the character of our towns and villages

3.8 Strategic Policy 5: Design and visual impact

3.9 Strategic Policy 10 ; sustainable transport

3.10 Spatial Policy 1,2,3,4- designates Service Centres, towns, villages, for development.

3.11 Spatial Policy 5: building in defined settlements or GP3

3.12 General Policy 3: exceptions to development in the countryside

3.13 Whilst the land is not zoned for development, the general principles contained with General Policy 2 (a-n) offer guidance that specifically addresses those issues affecting building on site that would be general 'development control' and considered capable of being applied to this proposal.

3.14 Environment Policy 1: Protection of the countryside

3.15 Environment Policy 10: Potential risk of flooding

3.16 Housing Policy 4: Location of new housing and exceptions

3.17 Transport Policies: 4 Highway safety; 7 Parking provisions

3.18 The Strategic Plan (2016) states at paragraph 4.3.8 for LOCAL DISTINCTIVENESS;

3.19 Definition of Previously Developed Land from Appendix 1 of the Strategic Plan

4.0 PLANNING HISTORY

4.1 PA 20/00008/LAW - A previous application for Certificate of Lawful Use for the use of site for storage of equipment and materials was DECLINED for the following reason:

"It has not been demonstrated that the use of the site for the storage of materials and plant has ever been carried on in a material sense or that it has been used for such for a period of ten years". As such, the site is still considered as land not designated for a particular purpose, as there is no change in use status.

4.2 20/00996/C - Levelling of site, erection of wall up to 1.5M and laying of hardcore hard standing. Was Approved. The case officer noted the scope of works was;

"2.2.1 The clearing out of rubble "infill" (hardcore) at the rear section of the site to existing site level of site frontage in order to form a level area for the entire site. This would make the entire site area level with the abutting highway. The site would be infilled with hardcore type 1 to ground area compacted to road level throughout site.

2.2.2 The erection of walls to join up the existing walls and to create a retaining wall to shore up the raised section at the rear sections of the site that are enclosed by the raised earth bank. This wall would be 1.5m high (matching the existing stone walls) with concrete coping stones on top and floated render finish to walling, and would form a retaining wall for the raised bank.

2.3 These works would be done to ensure the entire site area has the same level so that the site can be tidied up and grassed. As at the time of the site visit, the rear elements of the existing wall had been broken up with the site levelled to its proposed position, with raised bank firmly compacted".

5.0 REPRESENTATIONS (in brief)

5.1 Arbery Commissioners commented (22.08.21) with a number of concerns, noting the site is not designated for residential use; limited space for parking off the main road; would ask for a strongly worded condition that garage should not be converted to residential use should the application be supported; The traffic using the main road travels in excess of the 40 mph speed limit and wondered whether this had been considered by the DoI Highways officer when they wrote their supportive comments. The Commissioners are not fundamentally opposed to the proposal but do feel that it needs careful consideration particularly in relation to the points they have raised."

5.2 Highways Services commented (03/08/21) with no objection.

5.3 Highways Drainage commented (13/08/21) seeking a private drainage scheme to avoid surface water runoff onto the highway.

5.4 DEFA Eco-systems Policy officer commented (11/08/21) don't object but note the proximity of the site being surrounded by open countryside and the potential for a variety of wildlife. There should be no net loss of biodiversity on site and give suggestion on how to achieve this. They also raise the issue over the adjacent water course only 3m away and the need to contact Inland Fisheries.

6.0 ASSESSMENT

- | | |
|--------------------------------|-----------------------------------|
| (i) Principle | (STP1,2,3 and SP1,2,3,4,5 Gp2,k). |
| (ii) Exceptional circumstances | (GP3 & HP4 & EP1). |
| (iii) Visual Impact | (STP5; GP2b c,f;j) |
| (iv) Neighbouring Amenities | (GP2g) |
| (v) Highway Safety | (GP2 h&I; TP 4&7) |
| (vi) Flood Risk | (EP10; GP2I) |

Principle

6.1 The starting point here is the land designation, it is clear from the Area Plan for the South, the application site is technically within a rural and protected part of the countryside where any development is strictly controlled.

6.2 In considering this application, Strategic Policy 2 and Spatial Policy 3 identify areas of development to be located, generally within existing towns and villages, it cannot be said the site sits within either Port Erin or Port St. Mary's defined areas and is very much technically part of the open countryside as previously identified. However the site does sit on a service road where there are some residential dwellings to the south of the highway along its length and easily accessible from the highway.

6.3 Given the broad location of the site and its location, it does not sit within a remote part of the countryside where there are no provisions for accessible transport. The site is adjacent to a highway where there is public transport available and would be approx. 1.3 miles from Port Erin shops and the same from the shops and service at Port St Mary. As such it is a fine balance whether this aspect in isolation would be contrary to Strategic Policy 10 (a)-(d).

6.4 When considering Strategic Policy 2 and Spatial Policy 5, development in the countryside is only permitted in exceptional circumstances, as detailed in paragraph 6.3 of the Strategic Plan, which is General Policy 3 as referenced in Spatial Policy 5. However, when conjointly assessed against Spatial Policy 5 and Strategic Policy 2 and Strategic Policy 10 of the Strategic Plan it is considered that the proposal would not be deemed a sustainable location for 'development' and would be contrary to those policies, if an exception is not achievable through GP3 that allows exemption for development in the countryside.

6.5 The agents advises that this land was sold as a depot (see planning history) and to some degree should be considered as previously developed land, the definition from the policy (para.3.19) seeks that there is or was a permanent structure on site, as there is none, other than a boundary wall for which permission was granted (see para.4.2) it would not necessarily be compliant in these terms with the definition or would adhere to that of Gp3(c) for previous developed land. Stp1 further considers previously developed land or land that is being under used and whether an efficient use of the site would be acceptable for a dwelling house.

6.6 The test is whether the proposal for a new dwelling here would be an improvement on the landscape and wider environment and whether an overriding exception can be found under Ep1 to offset development in the countryside as an over-riding national need in land use terms that are reasonable and for which there is no alternative. This concludes the application is to be assessed for the creation of a new residential property in the countryside.

6.7 To summarise, As identified earlier within the planning policy section of this report, this presumption against is set out in four different ways; the application site is not zoned for residential development under the Area Plan for the South; Secondly, General Policy 3 of the Isle of Man Strategic plan, states that in such areas new dwellings will generally not be permitted; Thirdly, the site is not identified in an Area Plan being a town, village, or within a sustainable urban extension and there for contrary to the exceptions indicated in Housing Policy 4; Fourthly, The site is zoned within an area of countryside which seeks to prevent development, unless the development is for an overriding national need where there is no alternative and would not adversely affect the countryside (visual impact assessed below). Unfortunately the proposal would fail on both counts and therefor a refusal can also legitimately be made on that basis.

Exceptional circumstances

6.8 In terms of planning policy there is a long established presumption against new residential development in the countryside. General Policy 3, and Housing Policy 4 both identify potential exceptions for development within such areas. More specifically, both General Policy 3 (paragraphs a, b & d) and Housing Policy 4 identifies three potential circumstances where residential development may be allowed. Firstly, if there is an essential need for an agricultural workers dwelling (agricultural condition attached requiring the property to be used only by full time agricultural workers only, which is proven to be justified); second, conversion of existing rural properties (i.e. traditional Manx stone barn); and thirdly the replacement of an existing dwelling with a new dwelling. Nevertheless, turning to the suitability of the site and noting the lack of support from the local authority, on balance, it is not considered for there to be an exception to be made in this application to create a new residential dwelling in the countryside and would be contrary to Gp3 and HP4.

Visual Impact

6.9 The proposal would be introducing an element of built development on site where at present there is none. There is no avoiding the fact that the proposed property in terms of its siting, scale, massing, height and finishes would be clearly visible from the highway and given the general flat-ish topography of the wider area, would be visible from a far. The nearest residential properties that would be considered to be the 'character of the streetscene' are only bungalows and this property would clearly be seen as dominant property on the landscape and within "the streetscene" and being of a contemporary design would exacerbate the situation. It is accepted that at either end of the Castletown Road there are properties of one and a half stores and some two stories but their distance from the site means they're not read within the same setting. When considering properties in the countryside, the rational is that they should ideally follow that of more traditional vernacular as noted in planning circular 3/91 to ensure any visual impact is appropriate for the countryside. In this case, the proposal would not be supported and would be contrary to aims of STP5 and GP2b&C where the proposal would have a detrimental visual impact upon the openness of the countryside for which EP1 seeks to protect.

Neighbouring Amenities

6.10 Turning to whether there would be any adverse impact (overlooking, loss of light; over bearing impact, and loss of privacy) upon those nearest neighbouring properties namely, Douval and Brook Cottage. The general level and scale of development proposed here, is considered to not cause material harm the enjoyment of the neighbouring amenity given the siting of the dwelling and the design / room layout and general fenestration with window placement across both floors ensures that any aspects of overlooking or loss of privacy are kept to a minimum given the intervening distances (25m). Furthermore, there would not be any loss of light or overshadowing from the built form of the proposed dwelling and garage, given the siting and distance to the neighbouring properties which in turn ensures there is no overbearing effect. It is further noted we have not received any objections or comments from the adjoining neighbours. On balance, these aspects would be considered to be compliant with those sections of General Policy 2(g).

Highway Safety

6.11 The application site already features an existing access and already serves the site. Highway Services have considered the merits of the proposal, access to and from the site from the highway noting visibility splays, 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 considered to align with the principles of Transport Policy 4 and 7 in terms of highways safety.

Flood Risk

6.12 It is noted the site is within an area identified at risk of flooding, whilst this issue has been noted by the applicants on the drawing (para.2.3) and the proposed boundary wall as approved would offer a level of flood protection, it is pertinent to consider whether an additional dwelling here with hard surfaces and non-permeable surfaces, roofs and driveways would have an adverse impact. Judging from the information available, the proposal can only exacerbate any possibility of flooding in an area already evidenced at risk of flooding and could not be supported as a site viable for development without significant mitigation measures. While the site might have some degree of protection on three sides by a masonry boundary wall, the vehicle access to the north at 7.0m wide and the understanding that the main highway to the north is also subject to flooding, there is little evidence to the contrary that would comfortably offset the unreasonable risk of flooding to the ground floor of the dwelling house. Whilst there is a possibility an engineering solution could be found to mitigate and manage the risk of any flooding, as the initial principle of a dwelling here cannot be supported, development on this site could be seen to be contrary to Ep10 and Gp2l.

7.0 CONCLUSION

7.1 On balance it is judged, the proposal is contrary to those aforementioned Policies of the Strategic Plan and does not meet the tests for exceptional development within the countryside. It is therefore concluded that the planning application is recommended for refusal.

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

8.3 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 28th March 2022

Item 5.9

Proposal : **Erection of building with commercial/retail use at ground floor and 5 apartments above**
Site Address : **1, 1A And 2 Marina Road**
 Douglas
 Isle Of Man
 IM1 2HD
Applicant : **Gold Properties Ltd**
Application No. : **21/01119/B- [click to view](#)**
Senior Planning **Mr Jason Singleton**
Officer :

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. No development shall commence until a schedule of materials and finishes and samples of the materials to be used in the construction of the external surfaces, including the sedum roof, 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.

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 bin storage has been provided in accordance with the approved plans. Such area shall not be used for any purpose other than the storage of bins associated with the development and shall remain free of obstruction for such use at all times.

Reason: To ensure sufficient bin storage is provided and retained for such use.

C 4. No development shall commence until a scheme for flood mitigation measures are first submitted to and approved in writing by the Department. All works which form part of the scheme shall be completed before any part of the ground floor or basement is occupied and shall be permanently retained thereafter.

Reason: To safeguard the amenities of prospective occupiers.

C 5. Prior to the occupation of either the retail or residential use, a scheme for the roof mounted air source heat pumps and Solar panels are first submitted to and approved in writing by the Department. All works which form part of the scheme shall be completed in accordance with those details.

Reason: To protect the neighbouring amenities.

C 6. No development shall commence until a scheme for the basement excavation is first submitted to and approved in writing by the Department. All works which form part of the scheme shall be completed in accordance with those details.

Reason: To control the level of excavation on site.

Reason for approval:

The proposed application has been designed to comply with General Policy 2, Environmental Policy 42 and Housing Policy 4 of the 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 these do relate to planning considerations:

Flood Management Division (DOI)

Planning Officer's Report

THE APPLICATION IS BEFORE THE PLANNING COMMITTEE AT THE REQUEST OF THE HEAD OF DEVELOPMENT MANAGEMENT

1.0 THE SITE

1.1 The application site is the curtilage of No: 1, 1A and 2 Marina Road, Douglas. The property is a three storey end of terrace adjacent to Senna Road which is characterised with traditional proportions and tiled pitched roof the usual fenestration proportions but no chimney stacks.

1.2 Internally comprises shops/retail on the ground floor kitchen and store and offices on the second floor and residential accommodation on the third floor. The property sits on to the north of the main shopping centre of the High street 'Marina Road'.

1.3 The character of the streetscene here is varied; opposite is Falcon house, a 5 storey building with shops on the ground floor and residential accommodation above; Tower house a 4 storey office / commercial / retail building.

1.4 To the rear of the application site is two storey flat roof building that fronts onto Market Street and the Chester Street Multi Storey car park opposite this.

2.0 THE PROPOSAL

2.1 Proposed is the demolition of the existing building and the erection of a replacement four storey building with commercial/ retail on the ground floor and 5 apartments above on the upper floors.

2.2 The design approach would see a more contemporary approach that would feature a grass sedum roof with plant and machinery are, the vertical proportions clad in a combination of red brick cladding panels to the rear lower proportions and the vertical section of the lift shaft, and the remainder a grey coloured TBC cladding panels and on the corner section of the building adjacent to Senna Road timber cladding to the first and second storey.

2.3 Internally, there would be the creation of a basement that would feature store and staff facilities with the retail unit above; the ground floor with the active street front would be for commercial and retail with bin storage to the side and bike storage to the rear; first and second floor would see the creation of four apartments (two per floor) one bedroom apartments and to the third floor a two bedroom penthouse apartment.

2.4 The application is also accompanied with an 7 page planning statement that notes; the site and the character of the streetscene; the planning history; results from consultations process; design proposals and rational and materials selection; details about the commercial;/retail aspect and the residential and the eco- credentials of the proposals.

3.0 PLANNING POLICY

3.1 Area Plan for the East designates the area as 'Mixed Use' within Strand Street. The application site is not within a conservation area. The street to the front (All of Strand Street) is identified as being at flood risk of surface water.

3.2 Within the written statement accompanying the Area Plan for the East, the following policy paragraphs offer some guidance;

3.3 Town Centre - Mixed Use Proposal 3 states on page 86:

" There will be a presumption in favour of retail, and ancillary town centre uses such as food and drink and health and beauty uses along the primary shopping frontage. Outside of the primary shopping frontage a wider variety of town centre uses including financial and professional services open to visiting members of the public will also be acceptable. Entertainment venues, Offices and residential use will be acceptable at first floor level and above, but not at ground floor level where an active frontage should be maintained and enhanced. These active frontages are essential to sustain an attractive town centre."

3.4 Urban Environment Proposal 1 states on page 51:

"The creation of residential units on the upper stories of buildings particularly in Douglas town centre or the subdivision of buildings (particularly in the case of older and underused buildings) for residential use will generally be supported provided proposals do not conflict with other strategic policies or proposals in this plan."

3.5 Urban Environment Proposal 2 states on page 52:

"All new development and regeneration proposals within the Comprehensive Treatment Areas and Douglas Town Centre must demonstrate design elements to provide and enhance areas of public realm through sensitive and context specific design."

3.6 Urban Environment Proposal 3 states on page 53:

"Development proposals, particularly in respect of Douglas Town Centre, which are contemporary in style and which clearly demonstrate innovative design solutions which enhance local character and distinctiveness will generally be supported."

3.7 It is appropriate to consider the following planning policies from the Isle of Man Strategic Plan 2016;

3.8 Strategic Policy

- 2 - Priority for new development to identified towns and villages
- 5 - Design and visual impact
- 9 - New retail to towns and villages
- 10 - Sustainable transport

3.9 Spatial Policy

1 - Priority to Douglas for development

3.10 General Policy

2 - General development control principles

3.11 Housing Policy

4 - Location of new housing and exceptions

3.12 Environmental Policy

42 - Respect the character and identity

10 - Potential risk of flooding

3.13 Business Policy

1 - Growth of employment opportunities

9 - Support for retail in existing defined areas

10 - Retail development in established towns

3.14 Transport Policy

4 - Highway safety

7 - Parking provisions

4.0 PLANNING HISTORY

4.1 The planning history of the site is more reflective of changes to the shops, opening hours, advertisements. As such they are not considered pertinent to this application.

5.0 REPRESENTATIONS (in brief - full reps can be read online)

5.1 Douglas Borough Council commented (6/10; 8/10; 16/11; 23/11; 8/12) on the bin provision and the storage of those, bicycle storage, electric provision in the bike storage area; On the amended drawing they do not object to the proposal.

5.2 Highways Services commented (7/10 & 9/12) initially raising concerns over the doors opening onto the highway. The amended plans were considered and highway have no objection subject to a condition that no doors open onto the highway.

5.3 Flood risk management commented (8/10) with no objection but highlighted the site is within a surface water flooding zone and recommends flood resilience built in.

6.0 ASSESSMENT

6.1 The fundamental issues to consider in the assessment of this planning application are;

- (i) Principle - (STP2, SP1, BP1, 9, 10, HP4)
- (ii) Design - (EP42)
- (iii) Visual Impact - (Gp2b, c)
- (iv) Neighbouring Amenities (Gp2g)
- (v) Living conditions (GP2h)
- (vi) Parking Provision - (TP4, 7)
- (vii) Flood Risk - (EP10; GP2I)
- (viii) Sustainable construction (GP2n)
- (ix) Basement Construction - (GP2f)

Principle

6.1 The site is within a designated area of mixed use on TAPE and is part of the main shopping street in Douglas Town Centre. The proposed scheme is for retail units at ground floor and accommodation above with 5 apartments. The principle of development within this part of

Douglas would be supported through STP2 and SP1 and HP4 as Douglas is a named Town. The retail would be supported through BP1 for the creation of employment opportunities through retail, and generally supported through BP9 & 10 given the proposed use is in accordance with the land use designation of Douglas Town Centre. The accommodation above would be in accordance with the guidance given in TAPE Urban Environment Proposal 1, and is further supported through the strategic plan at paragraph 9.4.5 to help support the use of the area at different times. As such the principle would be supported.

Design

6.2 The proposal would take a more contemporary approach to design given and fenestration placement and materials utilised, whilst different than the other properties in the streetscene, is not uncommon lower down the high street where some buildings have been rebuilt or in the process of being rebuilt to a more contemporary appearance. This approach is further supported in TAPE through Urban Environment Proposal 3, where it could be said the proposal "demonstrates innovative design solutions which enhance local character and distinctiveness", whilst this is subjective and may not be to everyone's liking, it is fairly inoffensive.

6.3 The basic form of the building is reflecting in the size of the footprint of the site and its height is broadly similar to those opposite. The inclusion of a flat/ sedum roof, helps keep the massing lower and somewhat provides a peasant appearance when viewed from the upper levels of Chester Street car park or any advantageous elevated position. It is further noted the building to the rear is also flat roofed as is some of those older properties to the rear streetscene. The choice of finishes and window sizes is what makes the proposal stand out in design terms, and leans more towards an interpretation of "contemporary" appearance. The use of large glazing to the ground floor helps keep an active street front and the glazing to the upper floors is more reflective of the proposed uses as residential, which in itself is not necessarily offensive. Given the narrow street width of Strand Street, there would be limited upward looking views from ground level. As such the proposal would be seen to make a positive contribution to this end of the street and could be seen to enhance this area of public realm through its design, providing a modern approach in accordance with EP42 and the UEP3.

Visual Impact

6.4 The proposal would be replacing an existing built form of traditional proportions and painted white render that is reflective of the tired character of the area. The existing is currently in a sorry state of appearance and is much reflective of this part of the streetscene. Whilst the proposed building would be a stark contrast (contemporary appearance) it would not be considered an incongruous feature and makes good use of a corner plot that echoes a progressive movement of modernising some of the existing buildings along the main shopping street.

6.5 Within the main shopping street with retail frontage, there has been a number of examples where the department has previously granted permission for properties to be demolished and rebuilt in a more contemporary appearance altering their visual appearance. As such, the proposed redevelopment of this site could positively contribute to the continued regeneration of the town centre.

Neighbouring amenity

6.6 Given the broad support for residential above the ground floor retail, the proposal would not be introducing a use that is not already evident in the streetscene. Furthermore it is not considered to have any adverse impact upon those residents already within the streetscene through any overlooking, loss of privacy or overbearing impact over and above the existing levels given the properties orientation. It is further noted we have not received any objections or

comments from the adjoining neighbours and the local authority do not object. On balance, these aspects would be considered to be compliant with those sections of General Policy 2(g).

Living conditions

6.7 In considering each of the apartments amenity standards, the building incorporates a number of large windows to the front and side with views out towards the adjacent properties, albeit its character is varied and not unattractive but one of an active streetscene. Each living room is positioned on the front elevation of the building affording views out with adequate amount of space within each apartment.

6.8 The proposed access to the apartments would be from the side elevation on Senna Road that is lit by street lighting, it is an active through road with some pedestrian activity that serves as a connection from Market Street to Marina Road and is wide enough for a commercial vehicle to fit along. As such this would be considered to be an acceptable entrance to the property.

6.9 The apartments are large enough to accommodate the usual arrangement of rooms for habitation in different layouts. There would appear to be adequate space to allow for the drying of clothes and circulation space within each apartment. There is also a communal staircase and a lift to all floors and a refuse or waste collection point at the side of the property. The living environment of the proposed apartments is deemed to be acceptable and provides satisfactory amenity standards in itself in accordance with Gp2h.

6.10 Being with the town centre development there is no outdoor amenity space provided. However there is ease of level access to good public open space that would provide a degree of respite from the activity in the area, namely Douglas promenade and the beach and other leisure areas off the promenade or Douglas head.

6.11 The current bin provision has been accommodated off the side elevation on Senna Road and has been designed in conjunction with Douglas Borough Council to ensure the bins are off the street and in secured store. This aspect of the proposal is deemed acceptable and in agreement with Douglas Borough Council para 5.1. There is adequate provision for cycle storage at the rear of the building from the service lane and has been agreed by highways authority as noted in para 5.2.

Parking Provision

6.12 The site provides no parking on site and Transport Policy 7 requires one parking space per one bedroom apartment. Highway Services have noted the IoM strategic plans call for off road parking spaces, but given the application site is with the town centre location and close proximity to primary public transportation links. Provision is allowed within the strategic plan in Appendix 7, Parking standards, A.7.1 which says "however, in general, the need to find a use for redundant buildings which are in sound condition will outweigh the drawback of any shortfall in parking provision".

6.13 The site is within 900m of the main bus station on Lord Street, offering routes throughout the Island, and is also centrally located within the Island's capital. The strategic plan also allows for a relaxed standard where "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". It is further noted Highways Services do not object to the lack of provision for parking and support this application as to do Douglas Borough Council.

6.14 The application site is amongst the most sustainable locations on the Island and so an objection on grounds of a lack of parking is not considered significant enough to warrant a refusal.

Flood Risk

6.15 It is noted the site is within an area identified at risk of flooding, (mainly the street) and the flood risk management team do not object, presumably as the residential element is on the upper floors and not at risk. As such a flood risk assessment is not required as per EP10. However, it would be pertinent in this instance, for the safeguard of property, to seek some form of flood prevention measures should a flood occur. There is every possibility an engineering solution within the fabric of the building could be incorporated to mitigate and manage any risk of flooding and limit the damage that may occur. Any flooding here is only likely to affect the ground floor retail and potentially that of the basement (storage). In this instance it would be appropriate to seek a condition that seeks flood protection or mitigation measures as part of the scheme prior to construction and retained thereafter. As the level of risk is low, the proposal would be seen to comply with EP10, GP2I.

6.16 Sustainable construction

The erection of a new building would have to conform to building regulations standards which ensures the thermal efficiency of the building is maximised. In addition the building has been designed with the majority of the glazing to take advantage of the natural light to the shop and apartments above. The design also proposes that the building will have Air source heat pumps and potentially Solar / PV panels to ensure that the building is as "green" as possible with the inclusion of a sedum roof.

Basement Construction

6.17 Within the application, it proposed to create a basement where present one is not shown, as such this will involve a degree of excavation on site and removal of materials. As such depending on the scale of excavation a license could be required Under S29(1)(b)(iii) of the 1986 Minerals Act, (page 22) where any excavation that exceeds the removal of over 200 cubic metre of material, the applicant should give the Department (DED) at least 2 weeks' notice in writing prior to commencement of excavations so a license may be issued.

6.18 Judging by the proposed basement floor plan this would measure a footprint of approx. 145sq m. The existing plans do not show any basement in existence. At the time of writing clarification was sought from the agents / applicant and further information is still pending. Nevertheless, as this would not be a reason to refuse the application, it would be appropriate to include a condition that seeks prior to construction a plan to be submitted to the department noting the extents of excavation for consultation in accordance with the Minerals Act to prevent any unnecessary excavation.

7.0 CONCLUSION

7.1 The planning application would be an acceptable form of development that has been designed to ensure that it complies with the aforementioned policies.

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 5.10

Proposal : Approval in principle for residential development
Site Address : Manninagh / Dalveen
Bircham Avenue
Ramsey
Isle Of Man
IM8 2LY
Applicant : Mrs Julie Mattin
Application No. : 21/01217/A- click to view
Head of Development Management : Mr S Butler

RECOMMENDATION: To REFUSE the application

Reasons and Notes for Refusal

R : Reasons for refusal

O : Notes (if any) attached to the reasons

R 1. Insufficient information has been provided to demonstrate that the removal and replacement of the existing dwellings would be acceptable due to their positive contribution to the surrounding area and as such is contrary to Strategic Plan Strategic Policy 5 and General Policy 2 (b & c).

R 2. Insufficient information has been provided to demonstrate that the site could be redeveloped without the loss of the existing houses or that, if such loss occurred, the resulting development would result in a net increase in dwellings and as such is contrary to Housing Policy 18.

R 3. Insufficient information has been provided to demonstrate that the site could be redeveloped without giving rise to unacceptable impacts in terms of flooding, and as such is contrary to Strategic Plan policies 10 and 13.

R 4. Insufficient information has been provided to demonstrate that the site could be redeveloped without giving rise to unacceptable impacts in terms tree loss, and as such is contrary to Strategic Plan policy 2 (f).

Interested Person Status – Additional Persons

It is recommended that Manx Utilities should be afforded IPS as they have commented on material issues.

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):

Owner/Occupiers of No.3 Altdale Terrace as they do not satisfy all of the requirements of paragraph 2 of the Department's Operational Policy on Interested Person Status (January 2020).

Planning Officer's Report

THE APPLICATION IS BEFORE THE PLANNING COMMITTEE AT THE REQUEST OF THE HEAD OF DEVELOPMENT MANAGEMENT

1.0 THE APPLICATION SITE

1.1 The site is a parcel of developed land which accommodates two three storey town houses, Manninagh and Dalveen, and garaging/ warehouses. The site sits to the West of Bircham Avenue directly North of the Bircham Avenue, Lezayre Road and Fairfield Avenue crossroads.

1.2 The main access point to the separate parts of the site is accessed via Bircham Avenue whereby there is a side access South of Dalveen which provides rear access to the other properties and off street parking available in front of the warehouse for three vehicles.

2.0 THE PROPOSAL

2.1 The application seeks Approval in Principle for area of residential development. Originally the application was stated for 10 properties but after a discussion with the applicant, no details in terms of number of dwellings, design, access etc. is included to be considered at this stage.

3.0 PLANNING HISTORY

3.1 There application site has been subject to a number of planning applications,

3.1.1 PA00/01353/B - Conversion of workshop to dwelling / Permitted

3.1.2 PA86/00341/C - Use of premises as garage for repair of motor vehicles / Refused

3.1.3 PA86/01105/C - Use of premises for wholesale carpet trade supplies / Application Withdrawn

4.0 PLANNING POLICY

4.1 The site lies within an area zoned as Predominantly Residential on the Ramsey Local Plan 1998, Map 2. The site is not within a Conservation Area and whilst the Flood Risk Maps show Dalveen, Manninagh and the garaging outside of a flood risk zone, the rear garden and the warehousing is shown within a flood risk zone of High Tidal Zone and as such Environment Policy 10 and 13 are applicable.

4.2 Given the nature of the application and the land designation there are several relevant policies from the Isle of Man Strategic Plan including;

4.2.1 Strategic Policy 1 which sets out that development should be located to make best use of previously developed land, redundant and underused buildings and utilising existing infrastructure,

4.2.2 Strategic Policy 5 which seeks that new development, including individual buildings should be designed to make a positive contribution.

4.2.3 Strategic Policy 2 which sets out that new development must be in existing settlements unless it complies with GP3.

4.2.4 General Policy 2 which sets out detailed "development control" considerations including:

...

(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;

...

- (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.

4.2.5 Housing Policy 4 which sets out that new housing must be located primarily within our existing towns and villages

4.2.6 Housing Policy 18 which states that applications which would involve the loss of existing housing which is fit for habitation or which could be made fit at reasonable cost will not usually be approved unless accompanied by firm proposals for replacement housing.

4.2.7 Transport Policy 4 which sets out that new development must be designed to be capable of accommodating vehicle and pedestrian journeys generated by the development in a safe and appropriate manner,

4.2.8 Transport Policy 7 which sets out that new development requires parking according to the standards with appendix 7.

4.2.9 Environment Policy 10 in connection with Environment Policy 13 which seeks that development is not in a Flood Risk Zone.

4.2.10 Environment Policy 13: Development which would result in an unacceptable risk from flooding, either on or off-site, will not be permitted.

4.3 It is also relevant to note that due to the unknown quantity of dwellings Housing Policy 5, which states that in developments of 8 or more, 25% need to be affordable housing would be applicable and Recreation Policy 3 which sets out that new residential development of ten or more houses must make provision for recreational and amenity space in accordance with Appendix 6.

5.0 REPRESENTATIONS

5.1 Highway Services have considered the application (18.10.21) and state, "Given that the site has existing dwellings and workshop on site, the traffic movement is unlikely to be significantly different for the residential use and safety risk would be expected to be similar too. Accordingly, Highways Development Control raises no opposition subject to a condition for further details at reserve matters stage to cover:

- i. Pedestrian and vehicular access and circulation arrangements to Manual for Manx Roads criteria.
- ii. Bicycle, car and accessible parking assessment on varying from the adopted standard and criteria
- iii. Servicing, ad hoc collections and deliveries, including loading, unloading and turning points
- iv. Waste storage and collection
- v. Swept path analysis
- vi. Stage 1 Road Safety Audit."

5.2 Ramsey Town Commissioners (20.12.21) - No Objection.

5.3 The Assistant Tree Officer has written in to state that there are trees on the site of which two situated to the South West corner of the plot they would have no objection to their removal but there is a tree of considerable size further back within the site which would require an Arboricultural Impact Assessment as allowing for its retention (including Root Protection Area) could impact on site layout and that this should be done prior to the determination of this application to demonstrate how the site could be developed without damaging the tree (2.11.21)

5.4 MUA have written in to states that they have no concerns in principle but would like to discuss the foul and surface water layouts with MU at any reserved matters stage. (16.11.21)

5.5 An objection was received from No.3 Altdale Terrace (18.10.21) on the basis of parking, streetscene and the layout. Further to discussions with the applicant and a change in the proposal no further comments were received from No.3 Altdale Terrace.

6.0 ASSESSMENT

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

- change in description and information provided
- site designation
- removal of properties
- flooding
- trees
- other matters

6.2 CHANGE IN DISCRIPTION AND INFORMATION PROVIDED

6.2.1 Due to the information provided within this application and the original proposal, it is necessary to make sure that what is being assessed within this assessment is clearly defined.

6.2.2 The original proposal stated "Approval in principle for the creation of ten town houses," having discussed the proposal with the applicant it was decided that the application was just to see whether the principle would be acceptable on the site and that all other aspects such as development amount, style, size and highways would be assessed in a future application.

6.2.3 As such whilst there is indicative information supplied within this application it is only the principle of residential on the site which is being assessed.

6.3 SITE DESIGNATION

6.3.1 As outlined in section 4 of this report, the site is situated within an area designated as "Predominately Residential" on the Ramsey Local Plan 1998. This would support the use for residential development, subject to any infrastructure or environmental constraints or issues.

6.4 REMOVAL OF PROPERTIES

6.4.1 When looking at an Approval in Principle application, there are several questions in which need to be asked, with one of the questions being whether the removal of the properties would be detrimental to the surrounding area.

6.4.2 Bircham Avenue is a mix of properties with the main underlying theme being three storey dwellings such as the properties of this application and several one/ two storey terraced/ semi-detached commissioner dwellings.

6.4.3 The issue with this application, is that whilst initial drawings were included, the applicant did not want these to be accepted as part of this application as they were just giving a general

idea of what could go in place, not what would be erected, this means that within this application there is nothing to show what could go in place of the existing dwellings.

6.4.4 The existing dwellings add interest to the overall area and have a positive contribution to the surrounding area, the removal of the dwellings would be detrimental to the streetscene.

6.4.5 With this in mind it's difficult to assess existing dwellings removal, whilst their removal would not be development (if the whole of the structures were demolished and not just part of them), the re-development of the site with three storey dwellings again might not be acceptable due to several factors (see below).

6.4.6 Furthermore, given the other issues on the site (see below) it has not been demonstrated that if the site were redeveloped and the existing houses demolished that the development would lead to a net increase in housing provision and as such may be contrary to the principle of Housing Policy 18.

6.5 FLOODING

6.5.1 Turning towards Environment Policy 10, which states that if there is a proposal within a flood risk survey that a Flood Risk Assessment needs to be done as per the requirements set out in Appendix 4.

6.5.2 The Development Procedure Order indicates that a Flood Risk Assessment (FRA) is required for applications (which includes Approval in Principle applications) within areas identified as being at risk of flooding on the latest maps. It does not set out what information that information a FRA should contain. The Department has published guidance on submitting planning applications which suggests a proportionate approach to flooding (September 2021) which states that for Approval in Principal Applications,

"The amount of information will depend on what matters are reserved, however the application must provide sufficient information to demonstrate how the applicant considers that the site could be made safe, even if the exact measures to be used are to be confirmed in subsequent reserved matters applications".

6.5.3 The applicant has stated in their supporting information,

"The properties are close to but not within the flood map areas. To mitigate any potential for the risk of future properties flooding the properties would have ground floor garages and planted areas. This area has never flooded but its close proximity to potential future flooding has been taken into account".

6.5.4 As noted previously, part of the site is identified on the latest maps as at risk of flooding. Whilst potentially part of the site could be redeveloped to avoid flooding, the applicant has not provided any information to demonstrate that this could, in principle, give a development that would be acceptable in other respects - not least as such development would likely require demolition of the existing houses (see comments above) and information has not been provided to demonstrate how dwellings with all living accommodation at 1st floor (this appears to be what is suggested) would be appropriate in terms of the street scene.

6.6 TREES

6.6.1 Concerns have been raised about the impact of the development on an existing tree which appears to be worthy of retention and no information has been provided which adequately demonstrates how, in principle, the site could be developed whilst retaining this tree (in the long term) - especially when noting the other constraints on the site.

6.7 OTHER MATTERS

6.7.1 Whilst it is noted that this assessment is not assessing anything other than the principle of development on the site, due to the indicative information and drawings received it would be necessary to put Section 13 agreements upon this application as per Housing Policy 5 and Recreation Policy 3 if it were approved.

6.7.5 As well as the usual AiP conditions (date for commencement, date for submission of Reserved Matters, Matters to be included in RM application) Conditions should also be attached with regards to Highway Services (i. Pedestrian and vehicular access and circulation arrangements to Manual for Manx Roads criteria. ii. Bicycle, car and accessible parking assessment on varying from the adopted standard and criteria iii. Servicing, ad hoc collections and deliveries, including loading, unloading and turning points iv. Waste storage and collection v. Swept path analysis and vi. Stage 1 Road Safety Audit).

6.7.6 In the event the committee were minded to approve the application, it should be noted that in addition to the S.13 issues (6.7.1) and the conditions (6.7.2) a detailed Flood Risk Assessment and Arboricultural Impact Assessment would be required to be conditioned.

CONCLUSION

7.1 Whilst the land zoning weighs in favour of the application, but such zoning is not a reason to automatically grant an Approval in Principle. Clearly matters can be reserved, but sufficient information must be provided to demonstrate at least conceptually how a site could potentially be developed without unacceptable impacts in terms of infrastructure/environmental constraints.

7.2 Concerns have been identified on this site in relation to flooding, tree retention and the potential replacement of existing dwellings and insufficient information has been provided to demonstrate how these could be adequately dealt with whilst redeveloping the site - especially noting that a solution to one may worsen the impact on another, or potentially give rise to unacceptable impacts (for example visual amenity/street scene).

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 28th March 2022

Item 5.11

Proposal : Erection of Polytunnel structure with associated works
Site Address : Ballaoates Farm
Ballavagher Road
St Johns
Isle Of Man
IM4 3JE
Applicant : Mr & Mrs J & S Kneen
Application No. : 22/00007/B- [click to view](#)
Head of Development Management : Mr S Butler

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 building hereby approved shall only be used for agricultural purposes.

Reason: the building has been assessed on the basis of agricultural use only.

C 3. In the event that it is no longer used or required for agricultural purposes, the building hereby approved shall be removed and the ground restored to its former condition within 6 months of it last being in use.

Reason: The building has been exceptionally approved solely to meet agricultural need and its subsequent retention would result in an unwarranted intrusion in the countryside.

Reason for approval:

The proposal for a lightweight structure within an existing farm setting, close to existing structures is considered to comply with General Policy 3 and Environment Policy 15 of the Strategic Plan 2016.

Interested Person Status – Additional Persons

None

Planning Officer's Report

THIS APPLICATION IS REFERRED TO THE COMMITTEE AS THE APPLICANT IS A CLOSE RELATIVE OF AN OFFICER OF THE P&BC DIRECTORATE

1.0 THE SITE

1.1 The site defined in red is a small part of a larger site, defined in blue which is the current holding of Ballaoates Farm which stretches north west from the Archallagan Road which links the A24 with the A3 at the Hope.

1.2 The whole site accommodates a range of buildings with a traditional Manx farmhouse at the entrance with the other side of the entrance formed by outbuildings which run parallel with and right alongside the road. Further into the site are larger, more modern buildings of an agricultural style and appearance.

1.3 The application site concerns only a small area of land to the South-East of the main farm house and outbuildings.

2.0 THE PROPOSAL

2.1 Proposed is the construction of a new polytunnel and base support (6.1m x 12.1m wide and 1.83m high). It will be constructed of galvanised high tensile hoop frames anchored to the ground with polythene cover, the base for the polytunnel will consist of well compacted gravel. No changes are proposed to access or site levels, or works proposed to services or trees. The site is not within 9 m of a watercourse or within a flood risk area.

3.0 PLANNING POLICY

3.1 The site lies within an area designated on the Town and Country Planning (Development Plan) Order 1982 as not for a particular purpose and within an area of High Landscape or Coastal Value and Scenic Significance.

3.2 The following Strategic Plan policies are relevant:

- General Policy 2 (Development Control considerations);
- General Policy 3 (No development on unallocated sites other than in given exceptions, which include works essential for the conduct of agriculture);
- Environment Policy 1 and 2 (protection of countryside and landscape);
- Environment Policy 14 (protection of important and versatile agricultural land);

3.3 Environment Policy 15 states (in full)

"Environment Policy 15: Where the Department is satisfied that there is agricultural or horticultural need for a new building (including a dwelling), sufficient to outweigh the general policy against development in the countryside, and that the impact of this development including buildings, accesses, servicing etc. is acceptable, such development must 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.

Only in exceptional circumstances will buildings be permitted in exposed or isolated areas or close to public highways and in all such cases will be subject to appropriate landscaping. The nature and materials of construction must also be appropriate to the purposes for which it is intended.

Where new agricultural buildings are proposed next to or close to existing residential properties, care must be taken to ensure that there is no unacceptable adverse impact through any activity, although it must be borne in mind that many farming activities require buildings which are best sited, in landscape terms, close to existing building groups in the rural landscape".

4.0 PLANNING HISTORY

4.1 Recently there has been an application to replace the farm house (21/00694/B - withdrawn), an application to convert outbuildings to tourist use (21/01463/B - pending) and an application to improve the access (20/01485/B - approved).

5.0 REPRESENTATIONS

5.1 DOI Highways (27.01.22) - No Highways Interest.

6.0 ASSESSMENT

6.1 The key issues are:

- Principle of Development;
- Relationship to existing buildings; and
- Details (scale, materials, colour, siting and form)

6.2 The application states,

"The application states that, "The proposed polytunnel will be used to grow fruit and vegetables for personal use and for sale at local farmers/ or to produce locally grow veg boxes which will be delivered weekly to customers. The proposal will allow for the production of fresh fruit and veg all year round. With the cost of fuel and food and the need to reduce the carbon footprint and mitigate global warming the proposal whilst it is acknowledged will not solve the problem will at least help to reduce some carbon emissions".

6.3 It is considered that the principle of the development is acceptable.

6.4 Given the topography, landscaping and existing buildings the site is not likely to be visually intrusive and is in any case a light weight structure and an appropriate sight in the countryside. Its siting is considered acceptable.

6.5 There are no concerns about the details of the proposal.

7.0 CONCLUSION

7.1 The proposal for a lightweight structure within an existing farm setting, close to existing structures is considered to comply with General Policy 3 and Environment Policy 15 and is recommended for approval subject to conditions.

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;
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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.