
Appeal Reference:	2023/A0103
Appeal by:	Craighill Developments Ltd
Appeal against:	The refusal of full planning permission
Proposal:	Residential development consisting of 39 no. dwellings, parking, open space, landscaping and associated ancillary works
Location:	Lands within the southwest portion of the former Craighill Quarry east of Ballyeastern Road and south of Craighill Park, Ballyclare
Planning Authority:	Antrim and Newtownabbey Borough Council
Application Reference:	LA03/2022/0813/F
Procedure:	Informal Hearing on 26 July 2024
Decisions by:	Commissioner Mandy Jones dated 30 October 2024

Decision

1. The appeal is allowed and full planning permission is granted subject to conditions.

Reasons

2. A Claim for Costs was made by Craighill Developments Ltd against Antrim and Newtownabbey Borough Council. This costs claim is the subject of a separate decision.
3. The main issues in this appeal are whether the proposal would:
 - result in unsatisfactory piecemeal development;
 - provide a quality residential development;
 - provide an appropriate level of parking and
 - provide a satisfactory means of dealing with sewage associated with the development.
4. The Council's fourth reason for refusal relating to sewage disposal was withdrawn.
5. Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the local development plan (LDP), so far as material to the application and to any other material considerations. Section 6 (4) states that where regard is to be had to the local development plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

6. In May 2017, the Court of Appeal declared the adoption of the 2014 version of the Belfast Metropolitan Area Plan 2014 (BMAP) unlawful. Prior to this, the draft version of BMAP was published in 2004, and the draft Newtownabbey Area Plan 2005 (dNAP) was published in March 1993. dBMAP effectively replaced the dNAP in 2004. However, Newtownabbey Area Plan 2005 was never formally adopted. Whilst the adopted version of BMAP is unlawful, dBMAP remains a material consideration despite it not being a Departmental Development Plan (DPP) or LDP.
7. Overarching regional policy is provided by the Strategic Planning Policy Statement for Northern Ireland (SPPS). It sets out transitional arrangements which will operate until a local authority has adopted a Plan Strategy (PS) for the whole area. No PS has been adopted for this area. The SPPS retains existing planning policy statements including Planning Policy Statement 7 – Quality Residential Environments (PPS 7) and Planning Policy Statement 3 – Access, Movement and Parking (PPS 3). The SPPS sets out the transitional arrangements to be followed in the event of a conflict between it and retained policy. Any conflict arising between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the SPPS. As no such conflict arises in this instance, the retained policy contained in PPS 7 and PPS 3 applies.

Site description

8. The appeal site is located in the southwest portion of the former Craighill Quarry, to the east of Ballyeaston Road and to the south of an established residential development, Craighill Park.
9. The appeal site consists of vegetated and scrub land associated with the former quarry. Its eastern boundary is undefined and opens to the existing quarry beyond. The southern boundary consists of mature, dense vegetation and the western boundary is defined by the Ballyeaston Road and mature high hedging and trees. The appeal site has two accesses: one from Ballyeaston Road and one through Craighill Park.
10. The topography of the appeal site has a strong southern gradient and varies greatly within the site due to past quarrying activities. The northern boundary comprises a steep embankment some 6m in height which descends steeply in a southeastern, southern and northwestern direction onto relatively flat land. This flat land then gradually inclines to form another embankment which runs the entirety of the southeastern boundary. The topography at this point changes again with a gradual drop into neighbouring lands.
11. Beyond the appeal site to the southeast, west and north are residential lands and to the south lies agricultural lands. The dwellings to the Ballyeaston Road are typically medium / high density, semi detached and detached properties within housing developments.

Concept Master Plan

12. The appeal site is within the development limits of Ballyclare in both dNAP and dBMAP. Within dBMAP, the appeal site forms part of a site zoned for housing (BE 04/03 Land at Craighill Quarry) and was subject to a range of key site requirements (KSR's). The Council argue that the proposal is contrary to KSR (a)

which requires that a Concept Master Plan is submitted to and agreed with the Department to facilitate the comprehensive development of the zoning.

13. In addition, PPS 7 Quality Residential Environments, Policy QD 2 Design Concept Statements, Concept Master Plans and Comprehensive Planning requires the submission of a design concept statement or where appropriate a concept master Plan to accompany all planning applications for residential development involving the development, in part or full, of sites of 15 hectares or more zoned for housing in development plans. Para 4.48 of the justification and amplification text states that where a Concept Master Plan is required, this will need to indicate in graphic form a scheme for the comprehensive development of the whole area, and include a written statement, detailed appraisals, sketches, plans and other illustrative materials to address all of the relevant matters set out in this Statement and its associated supplementary planning guidance. The concept Master Plan should also clearly demonstrate how it is intended to implement the scheme.
14. There has been a number of previously agreed Concept Master Plans for the entire lands which accompanied planning applications for earlier phases of development on the wider site, namely approvals LA03/2017/0790/F, LA03/2020/0117/F and LA03/2020/0568/F. A revised Concept Master Plan which the appellant maintains is a further iteration of previously agreed concept master plans was submitted to the Council on 8 December 2023 (8 December 2023 CMP) as part of the application – over one year after the planning application was submitted (drg no 21-048-C-01 Rev B). The 8 December 2023 Concept Master Plan shows the previous approved layouts which are currently under construction within the larger site - Phases 1,2A,2B and shows the relationship of the appeal site within the overall zoning.
15. The main difference in the 8 December 2023 CMP is the location of the neighbourhood facilities. Previous Concept Master Plans indicated the appeal site for neighbourhood facilities and noted '*Neighbourhood Facilities. BMAP KSR min 1.5 hectares. Area indicated is approx. 3 hectares. Doctors Surgery, Chemist, Local Amenity Shops*'. Although the Council argue that there is no provision made for neighbourhood facilities as required by the KSR, the 8 December 2023 CMP shows, the area for the neighbourhood facilities has now been displaced to the east and is now positioned centrally within the overall zoning and close to the quarry lake and road. It was argued by the appellant that the CMP for the zoning is well established and that this new proposed central location for the neighbourhood facilities is more suitable and of appropriate size.
16. The 8 December 2023 CMP shows the layouts of previously approved developments which are currently under construction within the larger site. The remaining areas which have not been constructed are shaded blue / green and noted ' area for further development... with shared surface courtyards' in the northeast and southeast of the wider site. Also noted are 'green pedestrian links' which connect to a central shared open space to the southeast of the quarry lake.
17. The Council also have concerns that the previous approved CMP (and part of previous planning applications) which include two distinct areas for the provision of neighbourhood facilities, one of which is the appeal site (if approved and implemented) will result in the previous approved CMP not capable of being delivered.

18. As this appeal site is part of a wider zoning and the 8 December 2023 CMP is very different from those previously approved, I would have expected the revised CMP to have been submitted to the Council as part of the application documents and not over one year later. The 8 December 2023 CMP now shows neighbourhood facilities centrally within the overall zoning and positioned close to the quarry lake and road. I agree that the level of information in the 8 December 2023 CMP falls short of what is required by Policy QD 2, (in particular how it is intended to implement the neighbourhood facilities). However, the level of information given in the 8 December 2024 CMP appears to be similar to that provided in the previous CMP's which were considered to be acceptable and have now become well established. The appellant argues that phasing / deliverability plans was never requested with the other CMPs.
19. A Concept Master Plan for a significant housing zoning such as this can be an evolving 'living' document responding to changing circumstances and external pressures. The first CMP for this zoning was produced in 2017 and as distinct phases of development came forward it has evolved and incorporated the displacement of the neighbourhood facilities in its most recent version (8 December 2023 CMP). I was told at the hearing that the entire zoning is under one ownership and the 8 December 2023 CMP provides a clear intention for the overall housing zoning.
20. The appeal proposal for the partial development of the zoned site for housing includes a Concept Master Plan which demonstrates how the comprehensive planning of the entire zoned area is to be undertaken. As such, I do not consider that the appeal proposal would result in unsatisfactory piecemeal development. The proposal complies with the requirements of the SPPS, Policy QD 2 of PPS 7 and KSR (a) of Zoning BE04/03 within dBMAP. As such, the Council's first reason for refusal has not been sustained.

Quality Residential Development

21. Within PPS 7, Policy QD 1 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential development. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. All proposals for residential development are expected to conform to a number of criteria including:
 - (a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;
 - (c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in integration with the surrounding area and
 - (h) requires that the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

22. The Council consider that the appeal proposal does not respect the surrounding context and is inappropriate to the character and topography of the site and contrary to criterion (a).
23. The appeal site presents a particularly challenging terrain due to the past quarrying operations within the overall zoning. However, it has been considered suitable for residential development despite this challenging topography and previous use. Previous phases of development within the zoning included retaining structures and levels differences similar to those proposed. The architectural design approach of the appeal proposal includes a series of regrading lands, levelling out and retaining structures.
24. Draft BMAP, Zoning BE 04/03, KSR (h) states that retaining structures shall not be included. In exceptional circumstances, where retaining structures are necessary they shall not exceed 1.5m in height. On Site Plan (drg no 21-048-01), the Council argue that a number of retaining wall structures are shown, measuring upwards of 1.8m in height, in particular those associated with plots 3,14 and 21.
25. The key on Site Plan, (drg no 21-048-01) denotes a purple line which indicates low wall/ retaining structure below 1.0m height and a blue line which indicates wall / retaining structure between 1.0m and 1.3m. There are no retaining structures which exceed 1.3m. I note that retaining structures proposed are for land remodelling only and are not included within the structure of any dwellings.
26. Plot 3 shows a wall / retaining structure between 1.0m and 1.3m along the rear (eastern) boundary of the plot between it and plot 4. The dwelling on corner plot 3 addresses the Ballyeaston Road which rises across the front of the plot and the FFL of the dwelling is 1.5m above the level of the road. There is a 1.8m masonry rendered wall, which extends from the building line of the dwelling on plot 3 and effectively screens the private amenity space from the Ballyeaston Road.
27. Plot 14 shows a close boarded timber fence at a maximum height of 1.8m along its eastern boundary and between plot 15. There are no retaining structures depicted on plot 14. Corner plot 21, indicates a low wall/ retaining structure below 1.0m height to its rear (southern) boundary. There is also a 1.8m high masonry rendered wall, which extends from the rear building line of the dwelling to enclose the private amenity space of plot 21 from the development spine road.
28. Whilst there are some free-standing masonry walls within plots 3 and 21, there are no retaining wall structures which exceed 1.3m within plots 3,14 and 21 or indeed within the overall development. The development is in conformity with KSR (h). I consider the proposed land remodelling is also an appropriate response to the character and topography of the site and in line with previous approvals within this zoning.
29. The Council also argue the Street Elevations (drg no 21-048-11) shows that plots 1,2 and 3 are elevated above the level of the road, in particular the finished floor level for the dwelling on plot 3 is 3m above the level of the adjacent road.

30. The Ballyeaston Road rises when travelling northwards across the frontages of plots 1, 2 and 3 and the corresponding finished floor levels increase in response to these rising road levels. The levels for plot 3 have been designed to respond to rising levels of Ballyeaston Road and the rising levels of the access to Craighill Park to the north. In terms of plot 3, Section D1 – D1, shows the Ballyeaston Road, level as 103.90 (at its maximum) and Ballyeaston Road leading to Craighill Park behind in elevation as 105.09 (rising 1.2m). The FFL of the dwelling on plot 3 is 106.00 and then increases to the FFL on plot 4 of 107.30. Land is graded to the front of the dwelling on plot 3 to the adjacent Ballyeaston Road level and incorporates an extensive linear band of trees and planting to soften this edge. I am satisfied that these dwellings on plots 1,2 and 3 respond to and respect the surrounding context in terms of levels. In fact, the relationships are similar to those for housing further north on the Ballyeaston Road.
31. Although spot levels for the roads are not shown on the Site Plan, multiple sections demonstrating the relationships between various plots and the road levels have been submitted as well as corresponding street levels.
32. The Council have concerns in regard to the relationship between the dwellings on plots 8 and 39 and the adjacent public amenity space which is on higher land. Plot 8 abuts the shared amenity space along its northeastern and eastern boundaries and the higher ground of the amenity space falls towards the side elevation of the dwelling on plot 8. Section E1 -E1 on drg no. 21-048-06 shows the level of Craighill Park at 109.32 and the amenity space falling to the side elevation of the dwelling on plot 8 (FFL 105.00) across approximately 9m. Landscaping proposals for this sloping amenity space include dense planting and semi mature trees. Any views from the upper levels along Craighill Park towards the upper side and rear elevation would be heavily screened. Plot 39 abuts the public amenity space along its northwestern boundary. Again, the amenity space falls towards the side elevation of the dwelling on plot 39. Section F1-F1 of drg. no.21-048-06 shows the higher levels of Craighill Park at 109.15 falling to the side elevation of the dwelling on plot 39 (FFL 104.7) across approximately 10m. Landscaping proposals for this sloping amenity space include dense planting and semi mature trees which could be secured by condition. Again, any views from Craighill Park towards the upper levels of the side elevations of the dwelling on plot 39 would be heavily screened. Given the proposals for woodland planting, separation distances and the oblique nature of views from the higher levels, I do not consider there to be unacceptable overlooking into the private amenity spaces of these dwellings.
33. Creating Places states that dwellings should be designed to present an attractive outlook unto both proposed and existing roads. The Council also have concerns in relation to dwelling on plot 8, which backs unto the internal Craighill Park access road and footpath. However, given the set back of this dwelling from the road, its orientation, level differences and the proposals for intervening substantial woodland planning I do not consider the positioning of the dwelling on plot 8 to be unacceptable in terms of outlook and overlooking.
34. Dwellings on plots 3 - 6 have rear to gable relationships with the dwelling on plot 2, and FFL's show a maximum difference of 5m. Section 1 on drg no. 21-048-11 demonstrates this relationship and indicates a low retaining wall below 1m in height extending 20m in length across the northern boundary of plot 2 and

associated land grading. I note there are no windows within the side elevation of the dwelling on plot 2 (House Type G). Given this, and the separation distances involved, topography and intervening belt of mature vegetation to the north of plot 2, I consider the relationship between the dwellings on plots 3 – 6 and plot 2 to be acceptable.

35. The dwelling on plot 22 has a gable to rear relationship with previously approved dwellings on plot 51 and 52 of approval 2018/A0072 and the finished floor levels will sit 5m higher. Section 5 on drg no. 21-048-11 shows the FFL of the dwelling on plot 22 as 104.00 with the dwelling on adjacent plot as 98.64 and a separation distance of 17m. This cross section adequately demonstrates the proposed changes in topography within the appeal site and the transitional changes of topography across the adjacent approved site. The gable windows of the dwelling on plot 22 include a ground floor and first floor bathroom and hall. A graded embankment falls to the boundary retaining wall (1.3m in height) and there is further retaining structures and grading as part of the adjacent planning approval. Although I accept there are moderate level differences, I consider that given the separation distances involved and intervening mature planning, the presentation of a gable wall of the dwelling on plot 22 will not appear unacceptably dominant. Due to the absence of any windows of habitable rooms on this gable elevation there will also be no overlooking. Whilst there may be some overlooking from the rear amenity space of plot 22 towards the dwellings within the adjacent approved development, I do not consider this to be to an unacceptable level given this urban context.
36. The council raise concerns with the dwellings on Plots 21,22,24 and 37 and their relationship to the internal development road. The dwellings on plots 21,24 and 37 occupy prominent corner plots within the development and comprise House Type J which has a dual frontage presentation, of which I was told by the appellant was similar to other dual frontage dwellings approved on previous phases. House Type J has a typical gable fronted elevation, and the flank elevation has a ground floor bay window and first floor Juliet balcony. It has a rendered finish, and the front brickwork gable is also carried through to the bay window detailing on the flank elevation. In my opinion, this house type provides two strong active frontages which respond to and address these key corner plots.
37. Concerns were also raised that the dwelling on plot 21 is overdeveloped due to the placement of the in – curtilage parking to the rear of the dwelling. The in - curtilage parking is approx. 9.6m to the rear of the dwelling and a screening wall (1.8 in height) parallel with the footpath extends from the rear elevation to enclose the rear amenity space from the spine road of the development. The screening wall is set back and parallel with the spine road with planting specified to soften its public edge. The rear private amenity space is 98.6m² (excluding the banking), which exceeds the requirement in Creating Places (CP) of 70 m². CP paragraph 7.20 states 'There should always be a strong definition between private open space and public areas, for example, where the side garden of a dwelling abuts a road, footpath or common open space. High quality boundary treatments, such as hedges or well-designed walls will be necessary in such cases to promote the quality of the residential environment'. In my opinion, this 1.8m rendered screening wall provides a strong definition between the private amenity space and the public edge and proposed planting and set back will soften its visual impact.

38. As a starting point an analysis of this particular appeal proposal for a housing development must take cognisance of its challenging topography and site-specific context. I consider the proposed land remodelling is an appropriate response to the character and topography of the site and in line with previous approvals within this zoning. I consider the housing layout has been designed to minimise the impact of differences in levels between properties (proposed existing and approved) and any changes in ground levels between buildings are accommodated by the use of planted banks. Dwellings are located and orientated to front onto existing and proposed roads to present an attractive outlook. As such, I consider that appeal proposal does respect the surrounding context and is appropriate to the character and topography of the site and meets criterion (a).

Public and Private Open Space.

39. Criterion (c) of Policy QD1, requires that adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete group of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area. Supplementary Planning Guidance is provided in 'Creating Places: Achieving Quality in Residential Development.' (CP). CP states that appropriate levels of provision should be determined by having regard to the particular context of the development and indicates a minimum requirement of 40m² for any individual house. CP further indicates that development of this nature requires an average of 70 m². The appeal development provides private amenity spaces largely to the rear of dwellings and I note that each private amenity space is in excess of 70m² (excluding any grading) ranging from 71m² to 366m². However, the Council raise concerns with plots 3 and 13 which are adjacent to the Ballyeaston Road and plots 21,24,35, and 37 which are corner plots and their private amenity spaces run parallel to either the public road or the internal spine road.
40. Plot 3 has a private amenity space of 193m² and plot 13 has a private amenity space of 165m². The private amenity spaces for plots 3 and 13, is enclosed by a 1.8m rendered wall, extending from the frontage building line and set back from the edge of the footpath. As indicated on 'Ballyeaston Road Street Elevation ' (drg no 21-048-11) the screening wall steps down, following the road profile and extensive planting is specified to the front of the wall to soften its impact.
41. The private amenity spaces for plots 21,24,35 and 37 are delineated from the spine road by 1.8m rendered walls. Again, these boundary walls are set back from the edge of the footpath and planting is specified to the front of the walls to soften their impact. I consider, the extent of these boundary walls is relatively minor within the overall development. Creating Places refers to the use of high-quality boundary treatments, such as hedges or well-designed walls to promote the quality of the residential environment in situations where private amenity spaces are next to public roads and given the placement and use of these boundary walls, I do not find them to be unacceptable and detrimental to the quality of the overall appeal development.
42. Although not referred to in the reasons for refusal, the Council raised Planning Policy Statement 8, Open Space, Sport and Recreation in their statement of case. In addition to PPS 7, Policy QD 1 criterion (c), PPS 8, Policy OS 2 Public Space in

New Residential Development requires that proposals for new residential development of 25 or more units, or on sites of one hectare or more to provide public open space as an integral part of the development. It states that where the provision of public open space is required (i) a normal expectation will be at least 10 % of the total site area or (ii) for residential development of 300 units or more.... a normal expectation will be around 15% of the total site area.

43. The appeal development is for 39 dwellings on a site of approximately 1.99 hectares. Applying the normal expectation of at least 10 %, an area of open space measuring 0.199 hectares should be provided. It is common case that this has been provided in the northern part of the appeal site, however the Council query the usability of this public open space.
44. Annex A of PPS 8, provides a definitions of open space and states that open space is taken to mean all open space of public value and includes (iii) amenity green space (most commonly, but not exclusively in housing areas) including informal recreation spaces, communal green spaces in and around housing and (vi) natural and semi natural urban green spaces – including woodlands, urban forestry, grasslands, wetlands etc. It continues that open spaces can perform multiple functions including as a visual amenity – even without public access, people enjoy having open space near to them to provide an outlook, variety in the urban scene or as a positive element in the landscape.
45. Site Plan (drg no 21-048-01) shows the extent of the open space located centrally within the development and includes a winding walkway linking the open space with Craighill Park to the north, a seating area and extensive woodland planting to sloping embankments. Although, the useable open space is the walkway and seating area, I consider this south facing open space holistically contributes to the urban quality of the development by providing an attractive green space and a high level of visual amenity as required by policy. In addition, throughout the appeal development are a number of linear strips of land to the rear of dwellings and the full perimeter of the appeal site which are planted out and provide a considerable visual amenity benefit.
46. I consider that there is adequate public open space provision which is an integral design element of the appeal development. Boundary treatments including extensive planting soften the visual impact of the development and assist in its integration with the surrounding context. I consider that conditions to address the laying out and landscaping of the open space, the timing of its implementation and the permanent retention of the open space are required. A condition is also necessary to tie the management and maintenance of the open space to an approach agreed by the Council.
47. PPS 8, Policy OS 2, requires a provision of open space (ii) for residential development of 300 units or more, or for development sites of 15 hectares or more, a normal expectation will be around 15 % of the total site area. The overall area of zoning BE 04/03 is 24.94 hectares. The Council argue that there is already a shortfall in the overall open space provision for the three planning approvals to date and the appeal development open space provision also falls short of the 15 % requirement for open space provision.

48. The appeal proposal meets the requirement for the provision of open space of 10% set out in policy. There is no requirement in policy that 15% open space provision comes forward in each individual phase of development. I note the Council have approved previous phases of development which did not meet the normal expected requirement of 10%. It would be unreasonable to expect the appellant to provide the shortfall from the previous approvals. I note that there are significant areas of the overall zoning still to come forward which could incrementally make up any shortfalls in the future. The appeal proposal meets criterion (c).
49. Criterion (h) of Policy QDI of PPS7 requires that the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. In terms of the approved development LA03/2017/0644/F and subsequent change of house type approval LA03/2023/0301/F directly to the south of the appeal development, on lower ground, the Council raise concerns with the impact on plots 48-52 and 54-59 in terms of overlooking, loss of privacy and dominance.
50. Drg no. 21-048-06 shows the layout of the approved housing development in relation to the appeal proposal. Plots 16-21, abut the southern boundary of the appeal site and plots 48-52 of approval LA03/2017/0644/F. Section A1-A1 indicates a back-to-back relationship with a minimum separation distance of 20m. The FFL of plot 18 is 103.015 and the FFL of plot 49 (LA03/2017/0644/F) is 98.64. The rear garden of plot 18 is gently graded (following the existing ground profile) to the rear boundary of plot 49 in which there is a retaining structure, part of the adjacent planning approval (as noted on drg 21-048-06). The rear garden of plot 49 has a rear boundary embankment reducing to a flat garden area. Given the adequate separation distances, proposed regrading transitioning to the adjacent approval regrading and intervening vegetation I consider there would not be any unacceptable overlooking or dominance for the approved dwellings.
51. Plots 54-59 of LA03/2017/0644/F have FFL's ranging between 99 and 95.2 compared with the proposed FFL 103 and 103.35 on plots 25-34. Back-to-back separation distances range from 28m to 45m. Again, given these generous separation distances, the oblique siting of the dwellings on plots 25-27, intervening vegetation and land regrading I do not consider there to be unacceptable dominance or overlooking for the approved dwellings.
52. In terms of the interrelationships between proposed dwellings, the Council considered the relationship between the dwellings on plots 1 and 2 which back on to plots 10,11 and 12 to be problematic. The dwellings on plots 10,11 and 12 are at an angle with the dwelling on plot 1 and any views from rear windows are oblique. Although the corner of the dwelling on plot 1 is approximately 2m from the boundary, this relationship is not back-to-back.
53. There is a rear to gable relationship between dwellings on plots 3 and 4. The fenestration on the gable of the dwelling on plot 4 includes a first floor wc and a ground floor and first floor hallway. Whilst the wc window is opaque, a condition for opaque glass to the two hallway windows (house type F) would negate any overlooking towards habitable windows to the rear of the dwelling on plot 3. A

similar rear to gable relationship occurs between the dwellings on plots 24 and 25 (house type F) and a similar condition can be attached.

54. Given this particular urban context, separation distances involved, double layers of intervening planting and proposed topography, I do not consider there to be unacceptable levels of overlooking, loss of privacy or dominance for the previously approved dwellings or proposed dwellings within the appeal development. The appeal proposal meets criterion (h) of Policy PPS 7.
55. In conclusion, the appeal proposal complies with PPS 7, Policy QD 1, criteria (a), (c) and (h) and the requirements set out in Creating Places. The Council's second reason for refusal has not been sustained.

Parking Provision

56. Within PPS7, Policy QD 1, criterion (f) requires that adequate and appropriate provision is made for parking. PPS 3, Access Movement and Parking, Policy AMP 7, Car Parking and Servicing Arrangements requires proposals to provide adequate provision for car parking and appropriate servicing arrangements. Supplementary planning guidance document 'Creating Places' sets the parking standards required.
57. Paragraph 20.08 of CP states where in – curtilage parking is provided and driveways, by virtue of their length, can accommodate 2 or more cars parking end to end, no more than 2 of these spaces will be counted towards the in-curtilage provision. Paragraph 20.09 of CP states that garages will only be counted towards the in – curtilage provision, where they are large enough to both accommodate cars and make provision for general storage. The Council considered that the proposed garages are large enough to accommodate both storage and cars.
58. The Council have stated that according to parking standards a total of 106 parking spaces are required for this appeal proposal. Each plot provides either one, two or three driveway in-curtilage car parking spaces, however in line with the requirements of paragraph 20.08, and counting two driveway spaces only per dwelling when three is provided gives a total of 76 in-curtilage spaces. Allowing for garages to be counted as spaces in line with paragraph 20.09, provides a further 28 spaces which is a total of 104 spaces. I do not read in CP, that a garage as a third space (in addition to two car parking spaces on the driveway end to end) cannot be counted. Two additional spaces can be easily accommodated as visitor on street parking, and I note there is a 40m layby to the front of the open space which provides for an additional 6 cars. Counting the six spaces provided on the layby in addition to 104 spaces provided, the total is 110 spaces, which exceeds the 106 spaces required.
59. The appeal proposal therefore complies with PPS 7, Policy QD 1, criterion (h) and PPS 3, Policy AMP 7 and the requirements set out in Creating Places. The Council's third reason for refusal has not been sustained.
60. In addition to the conditions already referred to, conditions are necessary to ensure the orderly development of the site and roadworks necessary to provide satisfactory access to each dwelling; a verification report for remediation and

monitoring works; a programme of archaeological works given the previous use of the site and to ensure an adequate means of sewage disposal is provided.

60. In conclusion, as the three reasons for refusal have not been sustained the appeal is allowed and full planning approval is granted subject to the conditions below.

Conditions

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
2. No development shall take place until a determination has been made under Article 3 of the Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The development shall be carried out in accordance with that determination.
3. No dwellings shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.
4. The proposed landscaping as indicated on Drawing Number 27/1, date stamped 13 October 2023, shall be carried out within the first planting season following the completion of the development hereby approved and shall be retained for the lifetime of the development at a minimum height of 2 metres of hedging and a minimum height of 4 metres for trees unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal.
5. The open space and communal amenity areas indicated on Drawing 03/2 date stamp received 13 October 2023 shall be provided prior to the occupation of the 25th dwelling hereby approved.
6. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.
7. Prior to the occupation of any dwellings approved herein a landscape management and maintenance plan shall be submitted to the Council and approved in writing by the Council. The plan shall set out the period of the plan, long term objectives, management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space. The landscape management plan shall be carried out as approved.
8. Prior to the occupation of any dwelling approved herein, a verification report which describes and demonstrates the effectiveness of all remediation and monitoring works undertaken shall be submitted to the Council and approved in writing. Such measures shall be retained for the lifetime of the development.

9. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by the Council. The POW shall provide for:
- The identification and evaluation of archaeological remains within the site;
 - Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
 - Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
 - Preparation of the digital, documentary and material archive for deposition.
10. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 09.
11. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 9. These measures shall be implemented and a final archaeological report shall be submitted to the Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council.
12. The development hereby permitted shall not be occupied until the remediation measures as presented within the Remediation Strategy Report, Document Number 06, date stamp received 14 September 2022 have been fully implemented and verified to the satisfaction of the Council.
13. There shall be no amendments or deviations from the remediation and verification recommendations contained within the Remediation Strategy Report, Document Number 06, date stamp received 14 September 2022 without the prior written approval of the Council.
14. Prior to the occupation of the development hereby permitted, verification documentation shall be submitted in the form of a verification report to the Council. The report shall describe all the remediation and monitoring works undertaken and shall demonstrate the effectiveness of the works in managing and remediating all risks posed by contamination.
15. If during the development works, a new source of contamination and risks are found, which had not been previously identified, works should cease and the Council's Planning Section shall be notified immediately. Any new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) Guidance, available online at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>.
16. Should an unacceptable risk to human health be identified, a remediation strategy shall be submitted to be agreed with the Council before being implemented.

17. No dwellings shall be occupied until either a main sewerage connection is agreed with NI Water, or the development is served by a package sewage treatment plant sited at a location to be agreed with the Council in consultation with NI Water. If required, drawings and specifications of the package treatment plant and arrangements for its management and maintenance, together with plans showing how the development is eventually to be connected to the public sewerage system, shall be submitted to and approved in writing by the Council before any development commences. No dwellings to be served by the package treatment plant shall be occupied until it has been installed as approved and is operational. The package plant shall be managed and maintained in accordance with the approved arrangements.
18. Windows on the side elevation of house type F on plots 4 and 25 shall be fitted with opaque glass and be permanently retained.

This decision relates to the following drawings submitted with the planning application:

Council ref:	Drawing Title	Drg No.	Date Received by Council
01	Location Plan	PL 01	14 Sept 2022
02	Location Plan: Phase 3	PL 02	14 Sept 2022
03/2	Site Plan	21-048-01Rev E	13 Oct 2023
04	Site Analysis	A-01	14 Sept 2022
05	Current and existing phasing	A-02	14 Sept 2022
06	Site Analysis: Site Constraints	A-03	14 Sept 2022
07	Site Analysis: Concept Plan	A-04	14 Sept 2022
*08/2	Master Concept Plan (updated CMP)	21-048-C-01Rev B	8 December 2023
11	House Type F1. Plans	F103	14 Sept 2022
12	House Type F1.Elevations	F104	14 Sept 2022
13/1	House Type G3	G3-101	13 Oct 2023
14	House Type G3. Handed	G3-102	14 Sept 2022
15	House Type H1.Handed	H-101	14 Sept 2022

16	House Type H1.2	H-102	14 Sept 2022
17	House Type H1.3	H-103	14 Sept 2022
18	House Type H1.4.Handed	H-104	14 Sept 2022
19/1	House Type J1.0	J-101	13 Oct 2023
20	House Type J1.0H.Handed	J-102	14 Sept 2022
21/2	Street Elevations	PLE11 rev D	13 Oct 2023
22	Existing Site Layout	C001	14 Sept 2022
23/1	Proposed PSD Layout	C310	13 Oct 2023
24/1	Roads Longitudinal Sections	C304	13 Oct 2023
25/1	Drainage Layout – Network 1	C305	13 Oct 2023
26/1	Drainage Layout – Network 2&3	C306	13 Oct 2023
27/1	Landscape Proposals	01Rev B	13 Oct 2023
* 28/1	Site Sections (updated drawing submitted at PAC hearing)	21-048-PL06 rev B	26 July 2024
29	Garage Drawings	G01	26 April 2023

COMMISSIONER MANDY JONES

List of Documents

Planning Authority: 'A' Statement of Case & Appendices

Appellant: 'B' Statement of Case & Appendices by Gravis Planning

Appearances at the Hearing

Planning Authority: Ms S de Brun
Ms A Wilson

Appellant: Mr C Bryson, Gravis Planning
Mr I Stewart, Formative Architects
Mr L Beagan, Atkins Realis
Mr B Quinn, Craighill Developments Ltd
Mr N Murphy, Craighill Developments Ltd