

**PLANNING (NI) ORDER 1991  
APPLICATIONS FOR PLANNING PERMISSION**

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<b>ITEM NO</b>	<b>19</b>			
<b>APPLIC NO</b>	LA07/2016/0889/F	Full	<b>DATE VALID</b>	7/4/16
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>			
<b>APPLICANT</b>	Telefonica UK Limited 260 Bath Road Slough SL1 4DX		<b>AGENT</b>	Taylor Patterson C/o Ross Planning 9a Clare Lane Cookstown BT80 8RJ
				NA
<b>LOCATION</b>	Lands 157m south west of Fernhill House 83 Clonallan Road Warrenpoint BT34 3QQ			
<b>PROPOSAL</b>	Proposed 25m telecommunications mast to carry 3No antennae and 2No. radio dishes, and associated works including 3No. equipment cabinets and site compound			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	55	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0

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Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2016/0889/F

**Date Received:** 04/07/2016

**Proposal:**

Proposed 25m telecommunications mast to carry 3No antennae and 2No. radio dishes, and associated works including 3No. equipment cabinets and site compound.

This development involves the erection of a 25m high lattice tower painted green/brown with three antennae and three RRU's at the top and two transmission dishes. An ISC cabinet and two RBS cabinets will be erected on concrete bases south of the mast. The compound will be finished in gravel and secured by a 1.1m high stock proof fence with a 1.0m wide entrance gate.

**Location:**

Lands 157m south west of Fernhill House, 83 Clonallon Road, Warrenpoint, BT34 3QQ.

The site is located approximately 1.0 mile north-east of Warrenpoint and approximately 2.5 miles north-west of Rostrevor.

**Site Characteristics & Area Characteristics:**

This rural site is located in a small elongated field measuring approximately 19.0m by 82.0m. The site itself is relatively flat and runs along the Clonallon Road. Access to the site is currently through an agricultural gate located on the south-eastern area of the site. Although the application site is a small part of a larger field, in the context of this application, due to the field being small and elongated it is important to highlight the boundaries of the field as opposed to the site. The eastern boundary of the site (with the Clonallon Road) is comprised of post and wire fencing and a number of large mature trees approximately 15m to 20m tall. The northern, western and southern boundaries are comprised of dense mature trees approximately 15m tall. Public views of the site are most prevalent from the Clonallon Road but the mature vegetation largely screens public views of the site. The ground of the site is primarily comprised of weeds and scrub grass. A watercourse is located to the west of the field in which the site is set.

The site is located outside of settlement development limits, as defined in the Banbridge / Newry and Mourne Area Plan 2015. The site itself is unzoned however it does lie within the Mourne Area of Outstanding Natural Beauty. There are no historic sites or monuments in close proximity to the site. South of the site, on the

approach to the site, the roadside boundary is comprised of trees for approximately 245m which helps to screen the site from public views. The nearest dwellings to the application site are:

1. 83 Clonallon Road – approximately 167m north-east of the site.
2. 9 Ballydesland Road – approximately 190m north-west of the site.
3. 83 Clonallon Road – approximately 216m south-east of the site.
4. 15 Donaghaguy Road – approximately 273m south-west of the site.
5. 5 Ballydesland Road – approximately 317m west of the site.

### Site History:

No previous planning applications have been submitted on this site. The site has however been the subject of two enforcement files:

1. P/2007/0058CA – Alleged unauthorised infilling of land – enforcement case closed as reduced to scale and no longer expedient.
2. P/2007/0153CA – Alleged unauthorised infilling of land – enforcement case closed as not expedient.

### Planning Policies & Material Considerations:

This planning application has been assessed under:

- The Regional Development Strategy 2035.
- The Strategic Planning Policy Statement for Northern Ireland (SPPS).
- The Banbridge / Newry & Mourne Area Plan 2015.
- PPS 2 – Natural Heritage.
- PPS 3 – Access, Movement and Parking.
- DCAN 15 – Vehicular Access Standards.
- PPS 10 – Telecommunications.
- DCAN 14 – Siting and Design of Radio Telecommunications Equipment.
- PPS 21 – Sustainable Development in the Countryside.

### Consultations:

The following consultation responses have been received for this planning application:

- The Joint Radio Company – 29/07/2016 – No objection.
- Environmental Health – 03/08/2016 – No objections in principle.
- OFCOM – 05/08/2016 – Two companies within a 500m radius.
- Transport NI – 09/08/2016 – No objections.
- PSNI Information and Communications Service – 12/08/2016 – No technical safeguarding objection to the proposal.
- Arqiva – 09/09/2016 – No adverse comments to make.
- Rivers Agency – 28/09/2016 – No reason to object.

### Objections & Representations

This planning application was advertised in the local press on 08/07/2016. There was an error in the description of the proposed application and it was re-advertised in the local press on 22/08/2016. There were no neighbours required to be notified of this planning application by letter. In total, 43 letters of objection have been received regarding this planning application from 18 different addresses. Out of the objections, 41 were standard letters and there were 2 other letters. An additional objection was received in writing and later that objector sent a letter to the Council to

confirm they wished to withdraw their objection. Eight letters of objection were resubmitted after the planning application was re-advertised.

In the standard letters of objection the key issues raised were:

1. It was alleged there had been illegal infilling of the site – this had been the subject of previous enforcement cases as discussed above.
2. Concerns were raised that the fill has caused the floodplain of a river to be impeded – Rivers Agency confirmed in its response dated 28/09/2016 that the site is not within the 1 in 100 year fluvial flood plain. Beyond the boundary of the development site, the landowner is required to maintain a working strip for the adjacent watercourse, though this cannot be conditioned through this application due to the red line boundary.
3. Clarification was sought to ascertain if the land of the site has been rezoned as industrial land – The site is not zoned in the Banbridge / Newry and Mourne Area Plan 2015 and has not been rezoned.
4. Concerns were raised with regards to PPS 10 – the proposal will be assessed against this policy in the section below.
5. Issues were raised over the effect of the proposal on bats foraging along the hedgerow – no evidence of the presence of wildlife has been submitted to the Council and the proposed structure does not involve moving parts and all surrounding trees are to be retained except for possibly one tree.
6. Concerns were raised over question 7 in the P1 were the applicant selected they had not received any pre application advice from Council – There was no formal pre-application discussion however the applicant has submitted details showing that informal contact was made with the Council, Councillors and MLAs.
7. It is argued that brownfield sites should have been considered as viable alternatives – Information submitted to the Council shows that six alternative sites were examined prior to the submission of this planning application.

An objection was submitted and personal details were supplied and asked to be redacted. The main objections specified in this letter were:

1. The objector was not notified of the planning application by letter – their property is not eligible for a letter of neighbour notification for this planning application.
2. The fencing surrounding the mast is not suitable as it would not restrict access by people. A higher fence would be unsightly in an AONB – DCAN 14 allows smaller fences in rural areas.
3. Wildlife surveys were not conducted – the applicant has indicated they are unaware of any protected wildlife and no information contrary to this has been received by the Council.
4. The application fails to identify a change of use from agricultural land to industrial land – the description of the application is appropriate.
5. Concerns were raised over question 7 in the P1 were the applicant selected they had not received any pre application advice from Council – There was no formal pre-application discussion however the applicant has submitted details showing that informal contact was made with the Council, Councillors and MLAs.
6. Concerns were raised over potential impacts of the proposal on flooding – As discussed above, Rivers Agency was consulted and expressed no reasons for refusal from a flood risk perspective.

7. It was alleged there had been illegal infilling of the site – this had been the subject of previous enforcement cases as discussed above.
8. No proposed levels have been submitted on the drawings – scaled drawings have been submitted with the application.

Another objection has been received with objections based on personal health conditions. The contents of this letter have been considered, however proof of compliance with ICNIRP Public Exposure Guidelines have been submitted as part of this application. Paragraph 6.29 of PPS 10 states:

*“The planning system is not the place for determining health safeguards. It is for the Department of Health, Social Services and Public Safety (DHSSPS) to decide what measures are necessary to protect public health.”*

Paragraph 6.30 of PPS 10 continues to discuss health concerns and mentions that if concerns are raised about the health effects of exposure to electromagnetic fields, it is not necessary for the Department [Planning Authority] to consider this aspect further provided the proposed telecommunications development meets ICNIRP guidelines in all aspects – in keeping with the view of DHSSPS. As a declaration has been submitted as proof the development is in compliance with the ICNIRP guidelines, these health concerns are not the responsibility of the Planning Authority.

#### **Consideration and Assessment:**

##### Banbridge / Newry and Mourne Area Plan 2015

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently under the remit of the Banbridge / Newry and Mourne Area Plan 2015 as the new Council has not yet adopted a local development plan. Using the above plan, the site is unzoned, located outside of settlement limits and is inside the Mourne Area of Outstanding Natural Beauty. There are no specific policies in the plans that are relevant to the determination of the application so the application will be considered under the operational policies of the SPSS and PPS 10. The impact of the development on the AONB will be considered under PPS 2.

##### The Strategic Planning Policy Statement for Northern Ireland (SPSS)

Paragraph 6.243 of the SPSS discusses that when considering telecommunications development, planning authorities are to consider the effects on visual amenity and environmentally sensitive features and locations. Applicants are therefore required to submit sufficient information to demonstrate that these considerations have been thoroughly assessed and mitigated. New masts are only to be considered where site sharing is not feasible or offers an improved environmental solution. Operators are encouraged to site share.

Overall there is no conflict between the provisions of the SPSS and the current policy provisions in Policy TEL 1 of PPS 10, therefore the proposed development will be assessed under PPS 10.

##### PPS 21 – Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 specifies a range of development types which, in principle, are considered to be acceptable in the countryside. Policy CTY 1 identifies that

telecommunications development may be acceptable in principle in the countryside, however such proposals are to continue to be considered in accordance with existing published planning policies. PPS 21 directs assessment of the proposed development to PPS 10.

#### PPS 10 – Telecommunications

Policy TEL 1 of PPS 10 permits proposals for telecommunications development where such proposals, together with any necessary enabling works, will not result in unacceptable damage to or harm to environmentally sensitive features or locations. Developers of telecommunications infrastructure are required, under Policy TEL 1, to demonstrate that the proposed development have regard to technical and operational constraints and that the proposed development has been sited and designed to minimise visual and environmental impact.

Supplementary information, submitted as part of the planning application, discusses that no existing masts exist nearby that could be upgraded and therefore a new site was required for a new mast. The supplementary information identifies six sites that could have been used to improve the mobile phone network in the Warrenpoint area. The reasons for not selecting any of these sites have also been included in their statement. Urban sites were investigated but it was determined that the proposed site offered the best solution. The undulating character of the landscape was identified as a significant consideration in this area and therefore a significantly elevated site was required to ensure that reasonable coverage is provided.

Telecommunications masts have the potential to be visually intrusive. The natural screenings of the site will help minimise the impact of the proposed development. The mast itself will be viewable along a short stretch of the Clonallon Road. Due to the existing screenings in the area, this will be primarily restricted to when a member of the public is adjacent to the site. The existing boundaries of the site will however help to minimise the visual impact of the structure. There will be public views of the antenna as this is 25m above ground level and will be higher than the surrounding trees. The antenna will be viewable from road sections including the Ballydesland Road and Dallan Road but the impact of any visual views will not unduly affect visual amenity. The proposed location avoids sensitive features and locations of archaeological, built or natural heritage value.

Proposals for the development of a new telecommunications mast will only be considered acceptable under Policy TEL 1 where it has been demonstrated that the above requirements have been met and where it is reasonably demonstrated that:

- (a) The sharing of an existing mast or other structure has been investigated and is not feasible.

As discussed above, it has been declared in the Supplementary Information that there are no existing masts nearby and therefore a no opportunity exists to upgrade an existing mast and as a result of this, a new mast is required. The Sitefinder Database has been used to identify mobile phone base stations in the Warrenpoint Area. It is however important to note that this database has not been updated since May 2012 following the withdrawal of voluntary information on the location of mobile base station sites from mobile network operators. Using this out of date information, there are four masts identified in the Warrenpoint area and all four are located along the A2 on the

entrance to Warrenpoint: three are located in the port and 1 is located close to the roundabout at the end of the dual carriage way. Both Vodafone and O2 have a mast in the port area. A site nearby was examined but determined that this location was too close to the existing cell site to enhance the coverage in the area. Using the information provided, I am satisfied that it has been demonstrated that the sharing of existing masts has been investigated and would not be feasible.

- (b) A new mast represents a better environmental solution than other options. Other options have been investigated, including siting antennas on buildings, and have been deemed to be not viable options. The undulating landscape in the area has been identified as a challenge which has led to the requirement of an elevated site to ensure reasonable coverage is provided. Measures have been taken to minimise the visual and environmental impact of the proposed development and these will be considered below. The mast is to be shared by Vodafone and O2, the sharing of masts is encouraged by Policy. This sharing of masts creates environmental benefits in that fewer masts are therefore required.

Policy TEL 1 requires Code System Operators to include in applications for telecommunications development:

- (1) Information about the purpose and the need for the particular development including a description of how it fits into the operator's wider network.  
The proposed mast will be used by both O2 and Vodafone to meet the rise in demand for 3G and 4G services. Both companies have pledged to close the urban/rural digital divide and provide 98% of users' indoor coverage on 2G or 3G in contrast to the c66% of the population who currently receive indoor coverage on 3G.
- (2) Details of the consideration given to measures to mitigate the visual and environmental impact of the proposal.  
The tower/mast will be R&T Swann lattice and painted green/brown. This is also in keeping with DCAN 14 which recommends the use of '*appropriate colouring having regard to the local context and backdrop of the site.*' In this instance the painting the tower/mast in green or brown would be appropriate and would help the structure visually integrate with the surrounding trees. The equipment housing will be grey in colour and given the limited views of this housing, it is deemed to be acceptable. As discussed previously, the site is well enclosed and the structure will be able to be viewed along a short stretch of the Clonallon Road and these works are deemed acceptable to ensure the proposed development is not visually intrusive.
- (3) As this proposal relates to a mobile telecommunications base station:
- Its location has been clearly defined, the height of the antennae is 23m above ground level, the top of the antennae is 25m above ground level, the frequency is 4G 800MHz Cellular, the modulation characteristics are 4G (800 or 2600) – 64 QAM and the power output is 800 MHz Cellular Band-31dBW.

- A declaration that the base station, when operational will meet the ICNIRP guidelines for public exposure to electromagnetic field has been received.

Policy allows the granting of planning permission for telecommunications development where a number of criteria have been satisfied. In this case the applicant has demonstrated the need of telecommunications development to serve an area with poor coverage and therefore provide enhanced mobile access with the economic and social benefits that brings. The mast is to be shared between O2 and Vodafone and it has been demonstrated that no existing masts can be used and alternative locations have been explored. Overall the proposed development will have a visual impact but it will not unduly impact visual amenity in the area.

#### PPS 2 – Natural Heritage

Policy NH 6 of PPS 2 states that planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality. The proposed development is unlikely to have a significant adverse impact on the AONB.

With regards Policy NH 5, the proposed development is unlikely to result in an unacceptable adverse impact on, or damage to, habitats, species or features as the proposed development involves the erection of a structure which does not move and all trees are to be retained except for possibly one.

#### **Recommendation:**

*Approval*

#### **Conditions:**

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

#### **Informatives:**

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.
4. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such



as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

5. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
6. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.
7. Where an undesignated watercourse flows through or adjacent to a development site, it is strongly advised that a working strip of appropriate width is retained to, in future, enable riparian landowners to fulfil their statutory obligations/responsibilities.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

<b>ITEM NO</b>	<b>20</b>			
<b>APPLIC NO</b>	LA07/2016/0927/A	Advertiseme	<b>DATE VALID</b>	7/8/16
<b>COUNCIL OPINION</b>	<b>CONSENT</b>			
<b>APPLICANT</b>	Newry, Mourne and Down District Council O'Hagan House Monaghan Row Newry BT35 8DJ	<b>AGENT</b>	Estates Section Greenbank Newry BT34 2QU	
			028 3031 3031	
<b>LOCATION</b>	Approximately 7 metres West of 10A/10B Marcus Square Newry BT34 1AE			
<b>PROPOSAL</b>	Free standing electronic display screen			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	
	0	0	0	
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0



Comhairle Ceantair  
**an Iúir, Mhúrn  
 agus an Dúin**

**Newry, Mourne  
 and Down**  
 District Council

- Application Reference:** LA07/2016/0927/A
- Date Received:** 8<sup>th</sup> July 2016
- Proposal:** Free standing electronic display screen
- Location:** Approximately 7 metres west of 10A / 10B Marcus Square, Newry, BT34 1AE.  
 The site is located in Newry city centre.

**Site Characteristics & Area Characteristics:**

This application site comprises the SE section of Marcus Square, a public space in the centre of Newry dominated by retail uses. The display screen structure has already been erected under a full planning permission granted by the DOE in March 2015. This decision was subsequently overturned in court on a procedural issue and is being re-determined by the Council. The screen sits well above street level on a single pole which anchors it to the ground. It faces north towards the main part of the Square. A public realm improvement scheme has been recently undertaken and the Square has a number of pieces of street furniture and planting, including a mature tree immediately south of the screen which filters views of it. Further south is the Cathedral of St Patrick and St Colman – a large ornate stone building which is listed. Most other buildings in the area are 2 – 4 storeys high.



Front



Side

The site lies within Newry City Centre, the Primary Retail Core (with adjacent Primary Retail Frontage), an Area of Archaeological Potential and Newry Conservation Area as designated in the Banbridge, Newry and Mourne Area Plan 2015. The surrounding area has a mix of uses including offices, retail and community buildings. Most other advertisements in the area are shop signs.

### Site History:

The screen structure was granted temporary approval by DOE on 10<sup>th</sup> March 2015 under application P/2014/0681/F. The screen was to be removed after a period of 2 years from the date of the decision. The screen was subsequently erected. After this, it became apparent that the DOE had not sent a neighbour

notification letter to the adjacent Cathedral. Representatives of the Cathedral sought a judicial review of the decision and the Court determined on 16<sup>th</sup> May 2016 that the application should be re-opened to notify the correct neighbours and then re-determined. As the DOE was no longer responsible for local planning applications following the re-organisation of local government and planning in April 2015, the application must now be determined by the new local planning authority, Newry, Mourne and Down District Council. The Council re-opened the application on 21<sup>st</sup> July 2016.

As the 2014 application relates to the structure of the screen, it was decided that the present separate application for Advertisement Consent should also be submitted. It will be processed alongside the full application.

There have been two previous applications for public realm schemes in the area:

- P/2011/0886/F – Removal of all existing surfaces to the streets and footpath, street furniture and street lighting and replacing same with new finishes, furniture and lighting columns – Approved 19.12.2011
- P/2014/0338/F – Environmental Improvements to include resurfacing of footpaths in natural stone, new street lighting, tree planting, street furniture and metal work entrance arch – Approved 04.08.2014

### Planning Policies & Material Considerations:

- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge, Newry & Mourne Area Plan 2015
- PPS6 – Planning, Archaeology and the Built Heritage
- PPS17 – Control of Outdoor Advertisements
- Newry Conservation Area Booklet



**Consultations:**

No consultations were considered necessary in respect of the application for advertisement consent. The consultee advice received on the full application P/2014/0681/F is noted.

**Objections & Representations:**

The Planning (Control of Advertisements) Regulations (Northern Ireland) 2015 imposes no statutory requirement on planning authorities to advertise or neighbour notify applications for advertisement consent. The Council has now advertised the accompanying full application in line with its statutory obligations and a high volume of representations was received. The level of public objection is noted. This application relates to the use of the screen to advertise rather than the principle of it being there, and it will be assessed under separate policies.

**Consideration and Assessment:**

The main issues to be considered are the effect of the advertisement on amenity and public safety, the setting of the listed Cathedral and the character of the Newry Conservation Area.

There are no specific policies in the adopted Area Plan that are relevant to the determination of the application and it will be assessed against regional operational policies.

The SPPS aims to ensure that advertisements do not prejudice amenity or public safety, having regard to the specific circumstances of each proposal. This is in line with the approach adopted in the retained policy AD1 of PPS17. Paragraph 6.59 of the SPPS states that care must be taken to ensure that all proposals will not detract from the place where advertising is to be displayed or its surroundings. In particular, it is important to prevent clutter, to adequately control signs involving illumination and to protect features such as listed buildings, and conservation areas from the potential adverse effects of advertising. The subject matter of advertising is not normally a material planning consideration.

There are no public safety or road safety issues associated with this proposal as TransportNI had no objections to the structure under the full application. In relation to advertisements the term amenity is usually understood to mean its effect upon the appearance of the building or structure or the immediate neighbourhood where it is displayed, or its impact over long distance views. It is acknowledged that this advertisement does have an impact on views within the conservation area. This will be considered further below.

As there is no significant change to the policy requirements for advertisements in conservation areas following the publication of the SPPS (paragraph 6.20), the retained policy BH13 of PPS6 will be given substantial weight in this assessment in accordance with paragraph 1.12 of the SPPS.

Policy BH13 states that the Department will not normally grant consent for the display of advertisements in or close to a conservation area which would adversely

affect the character, appearance or setting of the area or which would be detrimental to public safety.

The Newry Conservation Area Booklet states that strict control will be exercised over advertisements and signs. Inappropriate, unnecessary and unsympathetic advertising or signage will not be permitted.

The need for this sign is a subjective matter that was disputed by a number of objectors to the full application. Its setting is an accessible public square characterised by the activity of shoppers, interaction with vehicular traffic and a place to sit and rest, or to meet friends. Marcus Square in general is an appropriate place for a screen of this type given pedestrian footfall in the area and the ability to host special events. The applicant has argued that it contributes to the vitality of this city centre area and facilitates the use of Marcus Square as an events space. On balance, it is likely that such uses could continue without the presence of a permanent advertising screen.

The planning department notes the concerns raised by the Historic Buildings Unit that the proposal would detract from the appearance, character and setting of the Cathedral and result in a loss of its architectural and historic integrity by reason of its scale and massing. It is accepted that the screen obscures part of one of the most important views of the Cathedral, though it is noted that if it was removed, an existing tree would still obscure the same (or a slightly larger) area of the building. We agree that the particular location of the screen at this corner of Marcus Square detracts from the setting of the Cathedral and would not be acceptable as a permanent feature in the townscape of the area.

There is no question of granting permanent consent for an advertising screen at this location as this would be clearly contrary to policy. However, the word 'normally' in policy BH13 indicates that there will be exceptional occasions where a proposal that does not meet all the criteria is considered acceptable when all material factors are balanced, or mitigation measures are employed. The imposition of a temporary time condition is recognised in planning practice as such a mitigation measure in that it prevents a permanent impact on the setting. It was on this basis that the original determination by DOE limited the screen to a period of two years, or effectively about 16 months by the time it was erected. A similar approach was taken in the case of a public display screen at Belfast City Hall, though a number of extensions to the temporary period were subsequently granted. At the time of writing there are 5 months of the original approved period remaining. The Council has indicated a desire to relocate the structure to a more appropriate position, and in order to allow time to identify a suitable site, we have recommended that the full application is re-determined as a temporary approval with the same end-date. It would be sensible to take the same approach with this application for advertisement consent as any acceptable period should not be shorter or longer than the time the structure is permitted to remain. This will ensure that the Council's investment in the structure on the basis of a two-year approval is not jeopardised because of a procedural error on the part of the DOE with regard to the notification of one property. It will also ensure that the land is restored to its former condition relatively quickly, original views of the Cathedral are restored, and the adverse impact on the conservation area is for no longer a period than was originally envisaged.

The screen has received a high level of attention in the media following the challenge made by the Cathedral and the resultant high level of public objections is noted. The planning department agrees that the screen is not an appropriate permanent feature in this part of the Square because it adversely affects the setting of the listed Cathedral and important views within the Conservation Area, and it is not sympathetic with the characteristic built form of the area. In order to permit an orderly process for removal or relocation of the screen, it is recommended that a temporary approval is issued with a condition that the screen is to be removed by 10<sup>th</sup> March 2017.

**Recommendation:** Temporary Approval with the screen to be removed by 10<sup>th</sup> March 2017

**Conditions:**

1. The electronic screen shall be removed and the land restored to its former condition by 10<sup>th</sup> March 2017.

Reason: This type of advertisement is such that its permanent retention would harm the appearance, character and setting of a listed building and the Newry Conservation Area.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

Newry, Mourne and Down Council  
Planning Department  
O'Hagan House  
Monaghan Row  
Monaghan Street  
Newry  
BT35 6BH

19<sup>th</sup> October 2016

**Your Ref:** P/2014/0681/F  
**Proposal:** Free standing electronic display screen  
**Location:** Approximately 7 metres west of 10A / 10B Marcus Square, Newry

**Your Ref:** LA07/2016/0927/A  
**Proposal:** Free standing electronic display screen  
**Location:** Approximately 7 metres west of 10A / 10B Marcus Square, Newry

1. The above two planning applications are due to be discussed at next Wednesday's planning committee meeting, and both have been recommended for approval.
2. I would be grateful if the Council could note the contents of this objection, which has been issued on behalf of Luke Curran and Co. Solicitors, and The Trustees of the Parish of Newry and Diocese of Dromore. Furthermore, I would be grateful if the Council could respond to this objection in full, outlining how it considers that the issues detailed below have been given full consideration in the determination of this application. In the event that any of the issues hereby raised have not been considered thus far, I hereby request that no decision be taken until the matters are assessed.



**RTPI**  
Chartered Town Planner





### Procedural Matters

#### P/2014/0681/F

3. I have taken this opportunity to draw the Council's attention to the description of the development. In this respect, I submit that the application has not been accurately advertised in the local press insofar as the description makes no reference to the fact that the application is now retrospective and that permission is sought to retain an existing structure. The decision to accept as valid the current description of the proposal would appear to be at odds with the Council's standard practice of requesting private developers to ensure that retrospective applications are advertised accordingly. The failure to advertise an application appropriately could undermine the validity of this application and indeed any subsequent decision.
4. It is noteworthy that the planning authority is considering granting a temporary permission. However, the description of the proposal does not indicate that permission is sought on a temporary basis. Accordingly, potentially interested parties could have been prejudiced as a result of the failure to publicise the true nature of the proposal, and it would not be logical or reasonable to simply assume that temporary permission has been sought when the applicant has not indicated this to be the case.
5. The planning application forms have not been modified since the original planning application was determined. The applicant's details, as set out on Form P1, are listed as "Newry and Mourne District Council". However, Newry and Mourne District Council is no longer in existence and the planning application forms ought to have been updated accordingly. While this may or may not be considered significant, the planning authority ought to at least be seen to take appropriate steps to ensure that the applicant has been appropriately identified.
6. The currently used version of Form P1 asks applicants to identify whether or not applications are for temporary planning permission (Question 9). Had the planning authority taken steps to properly assess this application, it ought to have requested the submission of revised planning application forms, which ought to have reflected the fact that the application was now retrospective and that it was for temporary permission (if in fact that is what was intended). These procedural shortcomings undermine the validity of the current application and the completeness of the Council's assessment of the proposal thus far.



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**LA07/2016/0927/A**

7. In respect of the application for advertisement consent, the proposal is described as “free standing electronic display screen”. I would opine that the description of this proposal is misleading insofar as it has not been made explicitly clear that consent is sought to display signs / advertisements on the screen, notwithstanding that the application type is “advertisement consent” (because this distinction will not be immediately apparent to all potentially interested or affected parties). In any case, it is respectfully contended that it would have been more appropriate to describe this proposal differently to the application for operational development, which would alert potentially interested parties to the fact that two different types of proposal were under consideration.
8. Section 175 of The Planning Act (Northern Ireland) 2011 deals with the enforcement of advertisement control:

(1) The matters for which provision may be made by regulations under section 130 shall include provision for enabling a council to require the removal of any advertisement which is being displayed in contravention of the regulations, or the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations, and for that purpose for applying any of the provisions of this Act with respect to enforcement notices, subject to such adaptations and modifications as may be specified in the regulations.

(2) Without prejudice to any provision included in regulations made under section 130 by virtue of subsection (1), if any person displays an advertisement in contravention of the regulations that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale and, in the case of a continuing offence, to a fine not exceeding one-tenth of level 4 on the standard scale for each day during which the offence continues after conviction.

(3) For the purposes of subsection (2) and without prejudice to the generality of that subsection, a person shall be deemed to display an advertisement if—  
(a) the advertisement is displayed on land of which that person is the owner or occupier; or



(b) the advertisement gives publicity to that person's goods, trade, business or other concerns, but a person shall not be guilty of an offence under subsection (2) by reason only that an advertisement is displayed on land of which that person is the owner or occupier, or that that person's goods, trade, business or other concerns are given publicity by the advertisement, if that person proves either of the matters specified in subsection

(4). The matters are that—

- a) the advertisement was displayed without the person's knowledge; or
- b) the person took all reasonable steps to prevent the display or, after the advertisement had been displayed, to secure its removal.

9. In light of the foregoing, the Council is respectfully requested to confirm whether or not advertisements have been displayed on this screen between the date of its erection and the present date. If advertisements have in fact been displayed thereon, it is noteworthy that the application for Advertisement Consent was only validated on 7/8/16, as is indicated on the planning committee schedule, and the Council is respectfully requested to confirm whether or not it would regard the display of advertisements, in these circumstances, as a "continuing offence".

### Background

10. The background to this case is that planning permission had previously been granted for the erection of the electronic display screen. However, that application was subject to an application for judicial review. In the statement filed with the application for the judicial review (made under Order 53, Rule 3(2)(a) of the Rules of the Court of Judicature (Northern Ireland) 1980) the applicant claimed (at part 6)

The decision by the Respondent to grant Planning Permission without providing Neighbour Notification to the Applicants was in breach of a legitimate expectation of the Applicants to receive such notification and was procedurally unfair. The decision by the Respondent to grant Planning Permission was irrational and unlawfully failed to have any or proper regard to published Planning Policy Statement 6, in particular Policies BH 11 and BH12 as more particularly set out below (my emphasis).



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11. On 16<sup>th</sup> May 2016 the application was allowed and the Court ordered that
  1. The decision made by the Department of Environment, the proposed Respondent, on or about 10 March 2015 be forthwith removed into the Queen's Bench Division here for the purpose of being quashed,
  2. upon the said decision being removed into the Queen's Bench Division as aforesaid the same be quashed without further Order,
  3. the matter be referred back to the Newry & Mourne District Council for determination (subject to there being any application of Section 29 of the Planning Act (Northern Ireland) 2011), and;
  4. the proposed Respondent to pay to the Applicant the costs of this application, such costs to be taxed in default of agreement and;
  
12. While the matter was referred back to Newry and Mourne District Council for determination, it is respectfully contended that the application has not been re-assessed. The issues concerning the purported failure to have any or proper regard to published Planning Policy Statement 6, in particular Policies BH 11 and BH12, have not been considered or re-considered and in these circumstances it is apparent that the current recommendation to approve the application is premature, ill-founded and based upon an incomplete assessment of facts.
  
13. In a letter to the applicant (for the judicial review) dated 07<sup>th</sup> July 2016 the Council's legal representative indicated that she understood "that the application for judicial review was conceded on the basis that your client was not neighbor notified and not on all of the grounds on which you sought relief". The Council's legal representative then stated that "the Court therefore made no determination as regards the planning merits of the application or whether the screen should be removed". If this was the Council's legal representative's understanding of the position, one would have expected the proposal to be re-assessed. Even if it was felt that not all the grounds for relief had succeeded, all matters ought to have been appraised / re-appraised to ensure that the subsequent decision would not succumb to a later challenge (on grounds that had purportedly not been adjudicated upon in the judicial review).



14. On the subject of funding issues (that were previously raised in correspondence by “the applicant” for the judicial review) the Council’s legal representative stated that “the screen was only one part of a larger Revitalisation Scheme in the city which has been very successful”. If the screen was only one part of this scheme, and yet its retention is said to be necessary until March 2017, one would have expected to have been informed of the purported benefits to be accrued through its retention until that time.
15. The legal representative previously wrote that “The Council has clearly demonstrated that it complied with its obligation to carry out due diligence by the fact that planning permission was successfully applied for”. However, I would respectfully counter that statement by pointing out that the screen would appear to have been committed to before the actual obtaining of planning approval, and furthermore when the sign was committed to it would not have been known to the Council that the planning approval offered would be for a limited time period only. Accordingly, it is submitted that the Council’s due diligence was not effective, which is salient to the planning authority’s current justification for temporary approval (i.e. “this will ensure that the Council’s investment in the structure on the basis of a two-year approval is not jeopardised because of a procedural error on the part of the DOE with regard to the notification of one property”).
16. The planning department would appear to have placed an inordinately high level of emphasis upon the supposed amelioration of the diminution of the Council’s investment. In this respect, the current approval recommendation is considered Wednesday unreasonable. Now that the Council has recognised that the retention of the screen, on a permanent basis, would be inappropriate, it is inconceivable that a 5 month time limit would offer any tangible benefits, much less sufficient benefits to outweigh the strong planning policy grounds that would presume against this form of development.

#### Comments

17. Since it is clear that the Council recognises that the proposal is contrary to Policies BH 11 and BH 12 of PPS 6, it has not been deemed expedient to add further comment in this respect. However, it is contended that, notwithstanding the Council’s rationale, there is in fact no support within PPS 6 to justify temporary approval when proposals would be unacceptable on a permanent basis. The planning report rightly refers to a test of “exceptionality” however exceptionality cannot of itself be deemed equitable with a temporary approval. Temporary permission has purportedly been considered as “a

- mitigation measure in that it prevents a permanent impact on the setting” of the nearby listed building. However, the planning report does not identify any other “mitigation” measures that could have been applied and it does not explain how a temporary approval (5 month) can offer such “exceptional” benefits that the refusal of planning permission could not be countenanced.
18. Given the Council’s obligation to “determine” this application, it’s failure to re-consult NIEA’s Historic Buildings Unit would appear irrational. Additionally, the planning application forms make no mention of the fact that the proposal is temporary only. Notwithstanding the apparent failure to ensure applications are advertised appropriately, it would appear irrational to presume that permission was intended on a temporary basis or that this would suffice for the applicant’s purposes. If permission is being considered on a temporary basis, the planning authority’s key consultee ought to have been made aware of this fact. Whether or not this would have elicited a different consultation response cannot be surmised, however this information was material and it is was not conveyed to a key consultee (NIEA’s Historic Buildings Unit) thereby ensuring that the consultation process was fatally flawed.
  19. In the planning report, the Council has referred to the “mature tree immediately south of the screen, which filters views of it”. Since the views of the screen are “filtered” it is reasonable to deduce that the screen is not effective, operationally, for viewing purposes, to those approaching from direction of the tree in question. If the screen is not effective in this regard, it is respectfully contended that it is not located in its optimum location, as had previously been suggested in supporting information, consequently diminishing any notional justification for its approval.
  20. In submitting that the current approval recommendation is Wednesbury unreasonable, I would opine that the effect of a refusal would not be materially different from that of a temporary approval, for a period of 5 months only. In any case, the benefits of a temporary approval, for such a short period of time, do not appear to have been fully laid out in the Council’s planning report.
  21. The Council’s current reliance on the quashed permission’s two-year time limit confirms that the proposal has not been re-considered or re-determined. In that respect, the myriad objections submitted have not been given due consideration while no consideration has been given to the “other grounds for relief” set out in the application for judicial review. It is hereby submitted that the justification for the approval



recommendation, as publicly displayed on the planning portal, confirms that the original approval has simply been ratified, as distinct from a comprehensive review or reconsideration having taken place.

### Noise

22. The planning report indicates that "it is understood that sound from the screen is now generally turned off, except for special events, preventing any noise impact on church services".
23. In general, where complaints of this nature are provided to the planning authority, these matters are required to be fully assessed prior to the determination of a planning application. I would be grateful if the Council could confirm whether information on the screen's noise emissions has been sought. If so, it would appear incumbent upon the planning authority to disseminate such information to the concerned parties, and also to its Environmental Health department. The planning report indicates that "if there are genuine noise complaints these can be investigated by Environmental Health". However, it would appear proprietary that such issues are investigated in full prior to the granting of planning permission in order to take reasonable precautions that such disturbance will not in fact ensue.
24. The Council's understanding that the screen is now generally turned off does not offer an adequate safeguard for the prevention of noise disturbance. The matter has not been addressed in draft conditions (for approval) and the arrangement cannot be left to the applicant to self-police as this flexibility is not afforded to private developers.

### Trees

25. The planning report referred to concerns received in relation to the impact on trees (which are automatically protected in a Conservation Area). The planning report indicated that "there is no evidence that protected trees have been harmed".
26. Article 126 of the Planning (Northern Ireland) Act 2011 states that
  - a. (1) If any person, in contravention of a tree preservation order, cuts down, uproots or wilfully destroys a tree, or wilfully damages, tops or lops a tree in such



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a manner as to be likely to destroy it, that person shall be guilty of an offence and liable

b. (b) on conviction on indictment, to a fine.

27. On that basis, I would be grateful if the Council could confirm whether, in the course of the installation of the screen, any tree was topped, lopped, trimmed back or in any other way altered, and if so, was consent sought beforehand.

### CONCLUSION

28. Planning permission was originally granted for the erection of this sign and it was erected thereafter. This decision was quashed upon a legal challenge. As part of the legal challenge a number of grounds of relief were cited. The case was not contested by the DOE, purportedly on the sole basis of a procedural flaw (in undertaking an incomplete neighbor notification process). Whether or not the other grounds for relief were adjudicated on, the case was referred back to the Council for determination.
29. In determining this application, the Council made no attempt to re-evaluate the proposal, or to address the "other grounds for relief" previously sought. It is reasonable to expect that these matters would have been considered or re-considered, particularly if the Council wanted to ensure its decision would withstand another legal challenge. The failure to fully appraise these facts indicates that the current application has been pre-determined and that its consideration has not been objective. This is evident even in the fact that the permission is to be restricted to the remainder of the original permission's time limit.
30. Notwithstanding the procedural error that undermined the original permission, it is contended that the operational development has not been advertised properly since it does not reflect the facts that the application is retrospective and that it is for temporary permission, while the advertisement consent application does not accurately reflect the fact that the proposal is for an advertisement consent (the suffix to the planning application would not, of itself, automatically alert any or all interested parties to the fact that the application is for advertisement consent).
31. In light of the above, the Council is respectfully requested not to progress these applications any further until the descriptions are accurately revised, with re-



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advertisement / re-notification / re-consultation taking place as appropriate and the applications then re-assessed.

I would be grateful if you could acknowledge receipt of this correspondence before responding in full.

I look forward to hearing from you,

Yours faithfully,



**Colin O'Callaghan**  
Chartered Town Planner  
BSc Hons Dip TP MRTPI

Cc. Karen McNally, for Luke Curran Solicitors

Very Reverend Canon Francis Brown for The Trustees of the Parish of Newry and Diocese of Dromore



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**PLANNING (NI) ORDER 1991  
APPLICATIONS FOR PLANNING PERMISSION**

<b>ITEM NO</b>	<b>25</b>				
<b>APPLIC NO</b>	P/2014/0681/F	Full	<b>DATE VALID</b>	8/18/14	
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>				
<b>APPLICANT</b>	Newry And Mourne District Council Monaghan Row Newry BT35 8DJ		<b>AGENT</b>	Estate Section Newry And Mourne District Council Monaghan Row Newry BT35 8DJ 02830313091	
<b>LOCATION</b>	Approximately 7 metres west of 10A / 10B Marcus Square Newry BT34 1AE				
<b>PROPOSAL</b>	Free standing electronic display screen				
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>	
	52	0		3	0
			<b>Addresses</b>	<b>Signatures</b>	<b>Addresses</b>
			2,765	2,776	0 0



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

- Application Reference:** P/2014/0681/F
- Date Received:** 18<sup>th</sup> August 2014
- Proposal:** Free standing electronic display screen
- Location:** Approximately 7 metres west of 10A / 10B Marcus Square, Newry, BT34 1AE.  
The site is located in Newry city centre.

**Site Characteristics & Area Characteristics:**

This application site comprises the SE section of Marcus Square, a public space in the centre of Newry dominated by retail uses. The display screen has already been erected under a permission granted by the DOE in March 2015. This decision was subsequently overturned in court on a procedural issue. The screen sits well above street level on a single pole which anchors it to the ground. It faces north towards the main part of the Square. A public realm improvement scheme has been recently undertaken and the Square has a number of pieces of street furniture and planting, including a mature tree immediately south of the screen which filters views of it. Further south is the Cathedral of St Patrick and St Colman – a large ornate stone building which is listed. Most other buildings in the area are 2 – 4 storeys high.



Front



Side

The site lies within Newry City Centre, the Primary Retail Core (with adjacent Primary Retail Frontage), an Area of Archaeological Potential and Newry Conservation Area as designated in the Banbridge, Newry and Mourne Area Plan 2015. The surrounding area has a mix of uses including offices, retail and community buildings.

### Site History:

The present application was granted temporary approval by DOE on 10<sup>th</sup> March 2015. The screen was to be removed after a period of 2 years from the date of the decision. The screen was subsequently erected. After this, it became apparent that the DOE had not sent a neighbour notification letter to the adjacent Cathedral. Representatives of the Cathedral sought a judicial review of the decision and the Court determined on 16<sup>th</sup> May 2016 that the application should be re-opened to notify the correct neighbours and then re-determined. As the DOE was no longer responsible for local planning applications following the re-organisation of local government and planning in April 2015, the application must now be determined by the new local planning authority, Newry, Mourne and Down District Council. The Council re-opened the application on 21<sup>st</sup> July 2016.

As the present full application relates to the structure of the screen, it was decided that a separate application for Advertisement Consent should also be submitted. This was done on 8<sup>th</sup> July 2016 and the application (LA07/2016/0927/A) will be processed alongside the full application.

There have been two previous applications for public realm schemes in the area:

- P/2011/0886/F – Removal of all existing surfaces to the streets and footpath, street furniture and street lighting and replacing same with new finishes, furniture and lighting columns – Approved 19.12.2011
- P/2014/0338/F – Environmental Improvements to include resurfacing of footpaths in natural stone, new street lighting, tree planting, street furniture and metal work entrance arch – Approved 04.08.2014

### Planning Policies & Material Considerations:

- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge, Newry & Mourne Area Plan 2015
- PPS6 – Planning, Archaeology and the Built Heritage
- Newry Conservation Area Booklet
- *Living Places* Urban Stewardship and Design Guide



**Consultations:**

Five organisations were consulted under the original application:

- TransportNI – No objections. Informatives provided on insuring the structure.
- NI Water – No comment
- Environmental Health – No objections
- Protecting Historic Monuments – No archaeological objections
- Protecting Historic Buildings – The proposal would detract from the appearance, character and setting of the Cathedral and result in a loss of its architectural and historic integrity by reason of its scale and massing, contrary to Policy BH11.

There was no requirement for further consultations when the application was re-opened.

**Objections & Representations:**

The application was advertised in the local press on 12<sup>th</sup> September 2014 and 27 neighbouring properties were notified on 1<sup>st</sup> September 2014. The DOE received a total of 2 letters of objection in response to the initial consultation.

After the Council re-opened the application, all neighbours were re-notified with the addition of the Cathedral and the Parochial House opposite on 22<sup>nd</sup> July 2016. The application was re-advertised in the press on 5<sup>th</sup> August 2016. Individual letters of objection have been received to date from 25 addresses, in addition to 3 petitions with a total of 2776 signatures, some of which are from the same addresses. Due to the high volume of representations, a public notice acknowledging receipt of the petition was placed in the Newry Reporter on 21<sup>st</sup> September 2016. The letters of objection include several from the Priests of Newry Parish, confirming that they are now aware of the proposal, have taken the opportunity to submit representations, and have not been prejudiced as under the original determination by DOE.

The main issues raised in the objections are the adverse impact on the Listed Cathedral, that the screen is not sympathetic with the conservation area, that the screen is a distraction to motorists, that they did not have opportunity to comment on the original application, that Council officials have claimed it will be in place for five years, that noise from the screen impacts on church services, that it does not contribute to the 'events space' in Marcus Square, that any economic benefits should not override conservation of the built heritage, adverse impact on trees in the conservation area, potential for street drinking and anti-social behaviour, obstruction of entrance to local shops and that the Council is now adjudicating on its own application.

In response, it is considered that the impact on the listed building and the comments from Historic Buildings Unit were assessed by DOE in the initial determination. The weight to be attached to such considerations versus the perceived economic or cultural benefits of the proposal is a matter for the decision maker. On the basis that there would be an adverse impact on the setting of the listed building and the conservation area under policies BH11 and BH12, it was decided to restrict the screen to a two-year temporary permission. This is a recognised method of mitigating the adverse impacts of a proposal and ensuring no permanent adverse effects. It is not correct to suggest that these issues were not considered in the original determination. TransportNI have no road safety objections to the proposal. The original application was advertised in five local newspapers and notified to 27

neighbours and only two objections were received. It is acknowledged that the Cathedral should have been notified and the DOE conceded the legal challenge on this basis. However, it cannot be stated that the population of Newry were unaware of the original application in view of the publicity it was given. The planning permission which was quashed required removal of the screen by 10<sup>th</sup> March 2017 and if any Council official has stated that the screen will remain for five years, they are pre-empting the decision to re-determine the application which will be taken by elected members of the Planning Committee alone. It is understood that sound from the screen is now generally turned off, except for special events, preventing any adverse noise impact on church services. If there are genuine noise complaints, they can be investigated by Environmental Health. There is no evidence that protected trees have been harmed. The presence of the screen does not authorise illegal street drinking and any anti-social behaviour can be dealt with by the Police. No evidence has been submitted that there is a problem in this regard. The base of the screen is little wider than a lamppost and it does not significantly obstruct routes to existing businesses. The Council makes a large number of planning applications for projects in which it is involved, though these are assessed independently by the planning department and a recommendation made. Legislation then requires that all such applications are referred to the Planning Committee of elected representatives for their scrutiny and decision in a public forum. The Department for Infrastructure also has the power to call in applications for decision by the Minister if it is deemed necessary.

#### **Consideration and Assessment:**

The main issues to be considered are the effect of the screen on the setting of the listed Cathedral and the character of the Newry Conservation Area.

There are no specific policies in the adopted Area Plan that are relevant to the determination of the application and it will be assessed against regional operational policies.

The Cathedral of St Patrick and St Colman is listed under Section 80 of the Planning Act (Northern Ireland) 2011. The proposal affects the setting of the listed building and must be assessed against the relevant policy. As there is no significant change to the policy requirements for listed buildings and conservation areas following the publication of the SPPS and it is arguably less prescriptive, the retained policies of PPS6 will be given substantial weight in this assessment in accordance with paragraph 1.12 of the SPPS.

Policy BH11 states that development proposals that affect the setting of a listed building will normally only be considered appropriate where all the following criteria are met:

- (a) the detailed design respects the listed building in terms of scale, height, massing and alignment;
- (b) the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and
- (c) the nature of the use proposed respects the character of the setting of the building.

Policy BH12 requires that new development in conservation areas will normally:

- (a) preserve or enhance the character and appearance of the area;
- (b) be in sympathy with the characteristic built form of the area;
- (c) the scale, form, materials and detailing of the development respects the characteristics of adjoining buildings in the area;
- (d) does not result in environmental problems such as noise, nuisance or disturbance which would be detrimental to the particular character of the area;
- (e) important views within, into and out of the area are protected;
- (f) trees and other landscape features contributing to the character or appearance of the area are protected; and
- (g) conform with the guidance set out in conservation area documents.

The Conservation Area Booklet aims to permit the maximum degree of flexibility in terms of design and choice, consistent with the objective of preserving and enhancing the buildings and spaces which give the Conservation Area its quality and character. It requires that new buildings take proper account of neighbouring properties and adjacent spaces. Proposals should have regard to the continuity of rhythm, scale, mass and outline of adjacent buildings and their details, materials, texture and colour.

The DOE identified that the proposed screen had a number of shortcomings when assessed against the above policies and these concerns remain valid. They have now been raised by a number of objectors. The planning department notes the concerns raised by the Historic Buildings Unit that the proposal would detract from the appearance, character and setting of the Cathedral and result in a loss of its architectural and historic integrity by reason of its scale and massing. The planning authority must balance this consultee advice against other relevant factors and give weight to each as deemed appropriate. It is accepted that the screen obscures part of one of the most important views of the Cathedral, though it is noted that if it was removed, an existing tree would still obscure the same (or a slightly larger) area of the building. The materials used are not particularly sympathetic to the listed building, or to the built form the conservation area as a whole, though this is mainly due to the nature of the structure which could not be made of stone or rendered. The setting of the building is an accessible public square characterised by the activity of shoppers, interaction with vehicular traffic and a place to sit and rest, or to meet friends. Marcus Square in general is an appropriate place for a screen of this type given pedestrian footfall in the area and the ability to host special events. However, it is also acknowledged that the particular location of the screen at this corner of Marcus Square detracts from the setting of the Cathedral and would not be acceptable as a permanent feature in the townscape of the area. The submissions made on behalf of the Cathedral adopt a similar position. They are not opposed to the screen per se, but to its present location.

There is no question of granting permanent approval to the screen at this location as this would be clearly contrary to policy. However, the word 'normally' in the introduction to policies BH11 and BH12 indicates that there will be exceptional occasions where a proposal that does not meet all the criteria is considered acceptable when all material factors are balanced, or mitigation measures are employed. The imposition of a temporary time condition is recognised in planning practice as such a mitigation measure in that it prevents a permanent impact on the setting. It was on this basis that the original determination by DOE limited the screen to a period of two years, or effectively about 16 months by the time it was erected. A

similar approach was taken in the case of a public display screen at Belfast City Hall, though a number of extensions to the temporary period were subsequently granted. At the time of writing there are 5 months of the original approved period remaining. The Council has indicated a desire to relocate the structure to a more appropriate position, and in order to allow time to identify a suitable site, it is recommended that the application is re-determined as a temporary approval with the same end-date. This will ensure that the Council’s investment in the structure on the basis of a two-year approval is not jeopardised because of a procedural error on the part of the DOE with regard to the notification of one property. It will also ensure that the land is restored to its former condition relatively quickly, original views of the Cathedral are restored, and the adverse impact on the listed building is for no longer a period than was originally envisaged.

The screen has received a high level of attention in the media following the challenge made by the Cathedral and the resultant high level of public objections is noted. The planning department agrees that the screen is not an appropriate permanent feature in this part of the Square because it adversely affects the setting of the listed Cathedral and important views within the Conservation Area, and it is not sympathetic with the characteristic built form of the area. In order to permit an orderly process for removal or relocation of the screen, it is recommended that a temporary approval is issued with a condition that the screen is to be removed by 10<sup>th</sup> March 2017.

**Recommendation:** Temporary Approval with the screen to be removed by 10<sup>th</sup> March 2017

**Conditions:**

1. The electronic screen shall be removed and the land restored to its former condition by 10<sup>th</sup> March 2017.

Reason: This type of temporary structure is such that its permanent retention would harm the appearance, character and setting of a listed building and the Newry Conservation Area.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**



**PLANNING (NI) ORDER 1991  
APPLICATIONS FOR PLANNING PERMISSION**

**ITEM NO** 23

**APPLIC NO** P/2011/0845/F **Full** **DATE VALID** 9/23/11

**COUNCIL OPINION** REFUSAL

<b>APPLICANT</b>	Cloghoge Enterprises Ltd Cloghoge Enterprises Ltd 12 Fort Road  Newry BT35 7QN	<b>AGENT</b>	Pragma Planning Scottish Provident Building  West Belfast Bt23 5EG 02890918410
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**LOCATION** Site within Cloughoge Business Park  
Ellis Holdings  
14 Forkhill Road  
Newry

**PROPOSAL** Erection of new building to be used for Class B4 Storage and Distribution Use with car parking, ancillary offices, trade counter and staff facilities.

<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
	<b>Addresses Signatures</b>		<b>Addresses Signatures</b>	
	0	0	0	0

- 1 The proposal is contrary to the Banbridge Newry and Mourne Area Plan 2015, the statutory plan for the area, in that the site lies outside any settlement limit and no exceptional circumstances have been demonstrated to justify why this proposal could not be located within lands designated for economic development uses in the city, main towns or villages in the Council area in accordance with the sustainability objectives of the plan.
- 2 The proposal is contrary to paragraph 3 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) in that the proposal conflicts with an up-to-date development plan.
- 3 The proposal is contrary to paragraph 6.279 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) in that the site lies within the open countryside and no special need has been demonstrated to justify relaxation of the strict planning controls exercised in the countryside.
- 4 The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21, 'Sustainable Development in the Countryside' in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 5 The proposal is contrary to Policy PED 2 of the Department's Planning Policy Statement 4, Planning and Economic Development, in that the proposal does not meet any of the exceptions for economic development uses in the countryside.
- 6 The proposal is contrary to PED 3 of Planning Policy Statement 4 'Planning and Economic Development' in that the proposal does not represent the expansion of an established Economic Development Use in the Countryside and that the proposal, if permitted, would harm the appearance of the local area.



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agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: P/2011/0845/F**

**Date Received: 23.09.2011**

**Proposal: Erection of new building to be used for Class B4 Storage and Distribution Use with car parking, ancillary offices, trade counter and staff facilities.**

**Location: Site within Cloughoge Business Park, Ellis Holdings, 14 Forkhill Road, Newry**

**Site Characteristics & Area Characteristics:**

Site consists of an area of ground adjacent to the existing Cloughoge Business Park. By way of development plan definition, the site is located within the countryside, outside of settlement limits and within the Slieve Gullion Area of Outstanding Natural Beauty. The site is located on an elevated site and is open and exposed to views especially from the new A1 Dual Carriageway. There is an approved site for a new petrol filling station and associated shop, (P/2009/1041/F) adjacent to the proposed building. Substantial ground excavation works have taken place around the site subsequent to the approval of the petrol filling station in 2011. It is proposed to site the building in an area to the south of the canopy of the approved petrol filling station, within an area approved for parking for the petrol filling station and in a stepped area up to more car parking at the higher end of the site.

**Site History:**

P/2009/1041 - Proposed petrol service station, shop and associated site works was approved on 14.09.11 at Lands north east of and including no 12 Forkhill Road, Newry. This application was approved adjacent to the proposed building and within the current red line boundary of the proposed site.

**Surrounding Area:**

P/2000/2022/F - Change of use from former Primary School to Business Enterprise Park was approved on 29.01.2002. (outside the red line boundary of this site).

Subsequent to this approval, a series of permissions have been granted within the Business Park including car parking and site works, 2 light industrial units, joining together of 2 previously approved buildings containing light industrial warehouse units to form buildings, change of use of office to dental practice and change of use from commercial unit to day nursery.

**Planning Policies & Material Considerations:**

SPPS – Strategic Planning Policy Statement for Northern Ireland

Banbridge Newry and Mourne Area Plan 2015

PPS3 – Access, Movement and Parking / DCAN 15

PPS 4 – Planning and Economic Development

PPS 21 – Sustainable Development in the Countryside

**Consultations:**

Environmental Health Office – No objections on 1.11.13

Transportni – No objections, subject to conditions and informatives on 11.3.14

Central Procurement Directorate – No objections, subject to condition on 1.11.13

Doe Strategic Projects Team – Content, subject to conditions on 6.3.13

NI Water – Content, subject to conditions on 25.10.11.

**Objections & Representations**

No objections have been received to this proposal

## Consideration and Assessment:

This proposal seeks full planning permission for erection of new building to be used for Class B4 Storage and Distribution Use with car parking, ancillary offices, trade counter and staff facilities outside of settlement limits in the open countryside. Policy CTY 1 of PPS 21 states, amongst other things, that planning permission will be granted for industry and business uses in the countryside in accordance with PPS 4. It states that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings.

PED 2 of PPS 4 allows for categories of economic development uses in the countryside in accordance with the provision of specific policies contained in PPS 4:

- Expansion of an established Economic Development Use in the countryside, (PED 3);
- Redevelopment of an Established Economic Use, (PED 4);
- Major Industrial Development, (PED 5); OR
- Small Rural Project, (PED 6).

PED 2 also states that all other proposal for economic development in the countryside will only be permitted in exceptional circumstances. This would refer to all proposal not fitting within the categories outlined above.

Under PED 3 of PPS 4 the key test is whether the Economic Development Use that is proposed is established at this particular site or whether this proposal represents a new use in the countryside. As part of the statement submitted by the agent in March 2014, it has been claimed that PPS 4 permits this proposal to be approved. The agent outlined the criteria of PED 3 and claims that the proposed use does represent an economic development use under the policy. The agent highlighted the approved petrol filling station, shop and site works within this current red line as well as the permissions for B1 and B2 class uses within the Business Park. However, the Planning Authority does not agree that this proposal is permissible under PPS 4. In terms of the red line of the application site, the only relevant history for determining whether this proposal meets the key test under PED 3 is the approval for the petrol filling station and convenience shop in 2011. The Planning Authority considers that the 2011 approval equates to a sui generis and Class A use which is different from the proposed storage and distribution use which is a class B4 use under the Planning (Use Classes) Order (Northern Ireland) 2015. There is no history of Class B4 storage on this site, and as a consequence the proposal does not represent the expansion of an established economic development use under PED 3, nor does it meet any of the other exceptions under PED 2. Furthermore, PPS 4 defines economic development uses as those falling within classes B1 to B4 and thus the petrol filling station approval cannot be considered as an economic development use as defined in the preamble to PPS 4.

With regards to the uses within the adjacent Cloughoge Business Park, it must be noted that this proposed site under consideration does not encompass the area of the Business Park, that is, this application site is outside of the original red line of the

site approved for the change of use of the primary school to the Business Park and cannot be seen as an expansion of the uses within the Business park. In addition to being outside the area of the Business Park, it is important to note that the current uses within the Business Park are different from the proposed B4 storage and distribution use. Uses within the Business Park currently include hairdressers (class A), Dental Practice (Class D), Creche/ Day Nursery (Class D) and Laser Quest (Sui generis). Industrial units were approved on the site but this permission has since expired and as mentioned before all of these uses are outside the red line boundary of the site.

Under PED 3, it is also considered by the Planning Authority that due to the two storey large scale nature of this proposal, the engineering works required to construct the proposal and the due to the openness of the proposed site, that the scale and nature of the proposal would harm the appearance of the local area. Overall, this proposal fails to comply with policies PED 2 and PED 3 of PPS 4.

Under PED 9, proposals for economic development use are also required to meet general criteria for economic development. It is considered by the Planning Authority that this proposal fails to comply with this policy with regard to certain criteria. It is considered that the proposal is not compatible with the surrounding land uses which fall within different use classes and such development proposals are expected to be located within zonings for economic development uses as identified in the prevailing Area Plan. The proposal is also contrary to PED 9 as the proposal does not include satisfactory measures to assist integration into the landscape, landscaping arrangements are not of a high quality and appropriate boundary treatment and means of enclosure have not been provided. Contextually, this is an elevated, open and exposed site, especially from the new section of the motorway. The agent has contended that the proposal, if allowed, will assist the integration of the approved petrol filling station and lessen the impact of the retaining structure to the rear of the approved petrol filling station and thus the proposal will be seen as part of the Business Park and will therefore integrate and be read as part of the overall development of the site. The Planning Authority does not accept this view and it is considered that the openness of the site, the substantial two storey nature of the proposal, the substantial excavation work required on the site, the substantial retaining wall required on the site (5 metres in height) taken together with the lack landscape plan/ boundary treatment plan will mean that the proposal will not integrate into the landscape.

With regards to roads related issues, Transportni have confirmed that they are content with the proposal, subject to conditions and informatives. If the proposed building is for a storage and distribution use only, and not retail, then the Planning Authority are content that there would be satisfactory parking provision. The issue of car parking will be further considered later in this report.

In terms of the Development Plan context, the proposed site is located within the countryside, outside of any settlement limits as per the Banbridge Newry & Mourne Area Plan 2015. It is considered that the current Area Plan makes sufficient provision for this type of economic development uses throughout the district. The Plan Strategy is to focus development in the main towns and Newry City to ensure appropriate critical mass to support services and business commensurate with their role as main towns. The most up to date figures show that there is approximately

124 hectares of employment land zoned in Newry of which 97 hectares remain undeveloped.

The Planning Authority is fully mindful of the role of Planning and the Council to facilitate the growth of business and growing the local economy. The Planning Authority must also be mindful of the protective role they have and any growth should be sustainable and balanced against the potential for an adverse impact on the rural environment. All supporting material information has been fully taken into account and it is considered that no exceptional circumstances have been demonstrated to justify why this proposal requires an out of settlement limit location and could not be located within lands designated for economic development uses in the Area Plan.

PPS 1 General Principles, was superseded by the Strategic Planning Policy Statement for Northern Ireland (SPPS) which was published in September 2015. Paragraph 3.8 states that under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In practice this means that development that accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. This proposal is located within the countryside and so conflicts with the prevailing development plan and having considered all other material considerations, which do not indicate otherwise, the proposal should be refused.

At this point in the report, given that the policy context of the SPPS has just been considered, it is now appropriate to reflect and consider the actual nature of the proposal. The initial description of proposal for this scheme was proposed commercial building for class B4 storage and distribution uses with ancillary trade counters and showrooms. Following discussions with the agent, the description on the P1 form was changed to erection of new building to be used for class B4 storage and distribution uses with ancillary trade counter and staff facilities. However, despite this change in description, the Planning Authority considers that this proposal, as reflected in the proposed drawings, p1 form and the statement from the agent, contains a retail element to the proposal and so must also be considered under the SPPS which has cancelled the Departmental publication PPS 5: Retailing and Town Centres. With regards to the drawings, the proposed building has the appearance and the layout of a retail building with a trade counter inside the building. The elevation drawings appear to show the building as two separate units with a retail look in appearance. The contradictions as to the intended use of the building are further emphasised by the statement from the agent in March 2014 which states that the proposal as submitted was intended to be a general purpose commercial unit capable of a variety of uses to allow the applicant a degree of flexibility and goes on to state that while some of the drawings are marked with the term retail it was never intended to be a true retail scheme. Furthermore, the most up to date p1 form with regards to the average number of vehicles expected shows a daily increase to the premises of 25 visitors/ customers per day which is more reflective of a retail proposal. Given these expected figures it cannot be said that there is sufficient car

parking for both the petrol filling station and the proposed building to operate from this location.

Under Paragraph 6.279 of the SPPS (Town Centres and Retailing), it is stated that retailing will be directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted. However, as a general exception to the overall policy approach some retail facilities which may be considered appropriate outside settlement limits include farm shops, craft shops serving tourist or recreational facilities. Such retail facilities should be required to be located within existing buildings. All policies and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment, and meet the requirements of policy elsewhere in the SPPS. The Planning Authority considers that this proposal is contrary to this paragraph of the SPPS as the proposal is outside of settlement limits, does not meet any of the listed exceptions, will impact on the vitality and viability of the city centre and no special need has been demonstrated to justify relaxation of the strict planning controls exercised in the countryside.

## **RECOMMENDATION**

**It is recommended that this proposal should be refused for the stated reasons below.**

### **Refusal Reason:**

1. The proposal is contrary to the Banbridge Newry and Mourne Area Plan 2015, the statutory plan for the area, in that the site lies outside any settlement limit and no exceptional circumstances have been demonstrated to justify why this proposal could not be located within lands designated for economic development uses in the city, main towns or villages in the Council area in accordance with the sustainability objectives of the plans.
2. The proposal is contrary to paragraph 3 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) in that the proposal conflicts with an up-to-date development plan.
3. The proposal is contrary to paragraph 6.279 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) in that the site lies within the open

countryside and no special need has been demonstrated to justify relaxation of the strict planning controls exercised in the countryside.

4. The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21, 'Sustainable Development in the Countryside' in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
5. The proposal is contrary to Policy PED 2 of the Department's Planning Policy Statement 4, Planning and Economic Development, in that the proposal does not meet any of the exceptions for economic development uses in the countryside.
6. The proposal is contrary to PED 3 of Planning Policy Statement 4 'Planning and Economic Development' in that the proposal does not represent the expansion of an established Economic Development Use in the Countryside and that the proposal, if permitted, would harm the appearance of the local area.
7. The proposal is contrary to Policy PED 9 of the Department's Planning Policy Statement 4, Planning and Economic Development, in that it has not been demonstrated that the proposal;
  - is compatible with the surrounding land uses; and
  - that there are satisfactory measures to assist integration into the landscape.

**Case Officer**

**Authorised Officer**



- 7 The proposal is contrary to Policy PED 9 of the Department's Planning Policy Statement 4, Planning and Economic Development, in that it has not been demonstrated that the proposal;
- is compatible with the surrounding land uses; and
  - that there are satisfactory measures to assist integration into the landscape.
-



# Practice Pad

**Ref:** 11/002/02    **Date:** 19 October 2016

**Title:** Cloghogue Business Park

**Subject:** P/2011/0845/F

Scottish Provident Building  
7 Donegall Square West  
Belfast  
BT1 6JH

T: 028 9091 8410  
F: 028 9091 8201  
E: admin@pragmaplanning.com

This proposal is for a relatively modest warehouse building within an existing approved site at Cloghogue Business Park.

It will provide a small extension of the existing Cloghogue Business Park bringing significant investment of several million pounds

It will provide up to 20 permanent new jobs to the area and will increase the rates revenue intake to the Council.

Each of the 7 planning refusal reasons given are misleading, some are factually incorrect and the consideration of others prejudice the applicant.

The Planning Committee can consider other material considerations in determining this application and has clear planning reasons to approve this application.

## Refusal Reason 1

The site may be located outside the settlement limit of Newry but it is incorrect to consider it to be part of the countryside. The subject site has a planning permission which covers the entirety of the application site and therefore it already has a commercial use. An expansion of an existing use cannot be located elsewhere.

## Refusal Reason 2

This refusal reason is misleading and cannot be considered as there is no paragraph 3 in SPPS; therefore, the consideration of it as a reason for refusal would prejudice the applicant.

## Refusal Reason 3

This refusal reason is also misleading as it relates specifically to retail proposals, this scheme [as is clearly described in the application] is for a storage and distribution use and not retailing, it also should not be considered as it is irrelevant to this application.

## Refusal Reason 4

One of the many exceptions to this policy, is an exception in relation to business uses in accordance with PPS4. This point has been omitted from the planning report presented and is again seeking to mislead the Committee and prejudice the applicant.

## Refusal Reason 5

PED2 specifically promotes certain forms of development in the countryside by stating that they "will" be approved – this is a positive, proactive policy, which the Committee can seize and utilise to encourage growth, investment and job creation. Where the policy is negative is in terms of the impact that any proposals may have on the character or appearance of the rural area – that is the main issue for most schemes in the rural area. Those limitations do not apply in this case.

**Refusal reason 6**

This site has a long history of planning permissions being granted for a variety of generally commercial uses. The full planning History is too long to detail but it should have been made available to the Committee by the planning officer as to do otherwise will be misleading and prejudice the applicant.

Briefly it includes:

1. A business park (P/2000/2022/F)
2. Offices(P/2003/2050/F)
3. Light Industry (P/2007/0595/F)
4. Dental Surgery (P/2008/1048/F)
5. Petrol Filling Station (P/2009/1041/F).

All of the above business park/office/light industry uses were approved under a similar planning regime to that now in force and this proposal for a storage and distribution use fits well with the approved uses it therefore must be considered to be an expansion of those approved uses as it is contained within the same site and is proposed by the same applicant who is also the owner of the property.

The issue of harming the appearance of the local area is similarly manifestly unreasonable because the local area has already been substantially impacted upon and any rural character despoiled by the segregated motorway junction and associated park and ride. The petrol filling station application also included a 4m high retaining wall which this proposal will hide within the building, thereby reducing the visual impact of the wall. At the same time the building will hunker down into the side of the hill and will be viewed as part of the overall cluster of buildings at the business park – to suggest otherwise is to mislead the Committee and is unreasonable.

**Refusal Reason 7**

The proposal is compatible with the surrounding land uses to suggest somehow that it is not misleading, it is located at an approved business park and at the motorway junction, there are no other available storage and distribution uses within a similar distance of the junction, to seek to force it to locate in a less accessible and less sustainable location is manifestly unreasonable and contrary to the SPPS.

The opinion that the proposal will not integrate into the landscape is also misleading and shows a lack of understanding of the proposal – the building will hunker down beneath the existing buildings and will be partially underground it will also remove the visibility of the 4m high retaining wall.

**ITEM NO** 24

**APPLIC NO** P/2014/0653/O

Outline **DATE VALID** 8/6/14

**COUNCIL OPINION** APPROVAL

**APPLICANT** Anthony Havern 46 Lisgullion  
Park  
Newry  
BT35 6PD

**AGENT** Design 3 8 Chapel  
Road  
Camlough  
Newry  
BT35 7HQ  
+447871375963

**LOCATION** Corrinshago G.F.C  
40A Chancellors Road  
Newry  
County Down  
BT358PU

**PROPOSAL** Proposed 6 No. sites for dwellings

<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>				
	1	0		0		0		
					<b>Addresses Signatures</b>			
					0	0	0	0



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: P/2014/0653/O**

**Date Received: 06.08.2014**

**Proposal: Proposed 6 No. sites for dwellings**

**Location: Corrinshego G.F.C, 40A Chancellors Road, Newry, County Down  
BT358PU**

**Site Characteristics & Area Characteristics:**

The bulk of the application site constitutes the playing field of Corrinshego Gaelic Football Club. The clubhouse is located in the south-east corner of the site. This clubhouse is a modest single storey building. A hard-surfaced area is located to the front of the clubhouse. A palisade fence approximately 2 metres high encloses the football pitch along the roadside. It also separates the playing field from the hard-surfaced area to the front of the clubhouse.

The playing field is enclosed by hedges and a few trees along the remaining boundaries. It is served by floodlights and 2 no. dug outs.

By way of development plan definition, the site is located within the development limit of Newry and within a major area of existing open space in accordance with the Banbridge/Newry and Mourne Area Plan 2015. An unscheduled Archaeological site and monument (standing stone) is located to the north of the site. The site itself is located along a small stretch of Chancellors Road which is located between the main motorway and the main stretch of Chancellors Road.

Development within close proximity of the site includes 2 detached dwellings to the rear/north of the playing field. A bungalow is located a short distance east of the site. A further dwelling is located a short distance north-east of the site. Blearly Bungalows is located a short distance west of the site. Outline planning permission has been approved for a small residential development of 5 dwellings a short distance east of the site under P/2013/0416/O. Full permission has also been approved for a two-storey dwelling to the south of the site under P/2013/0602/F.

**Site History:**

P/1992/0661 – Change of use to provide GAC pitch was approved on 16.1.1993.

**Planning Policies & Material Considerations:**

SPPS – Strategic Planning Policy Statement for Northern Ireland

The Banbridge/Newry and Mourne Area Plan 2015

Planning Policy Statement 3 - Access, Movement and Parking.

Planning Policy Statement 6- Planning, Archaeology and the Built Heritage

Planning Policy Statement 7 - Quality Residential Environments.

Planning Policy Statement 8 - Open Space, Sport and Recreation.

Planning Policy Statement 12 - Housing in Settlement.

**Consultations:**

Roads Service has no objections to the proposed development.

The Environmental Health Department of Newry and Mourne District Council has no objections to this proposal. They have suggested in the event planning permission is granted an informative regarding appropriate glazing to reduce noise pollution from the neighbouring major road should be attached to the decision notice. They also recommended an informative regarding consent to discharge should be included in the decision notice.

Protecting Historic Monuments Unit of Northern Ireland Environment Agency has no archaeological objection to this proposal. They have requested dwellings at site 2 and 3 should be relocated within their respective plots to protect public views of the nearby standing stone.

NI Water did not raise any objections to this proposal.

**Objections & Representations**

A letter of objection was received on 4th September 2014. This letter was received by the owners of 46 Chancellors Road and was also signed by the owners of 44 and 44 A Chancellors Road. A further objection from the same person was received in December 2014. These have been fully considered before coming to this recommendation.

### Consideration and Assessment:

This proposal seeks outline planning permission for Proposed 6 No. sites for dwellings. As mentioned earlier, the site is within a major area of existing open space as outlined in the Banbridge Newry & Mourne Area Plan 2015. The Development Plan indicates that this area is shown for information and directs any assessment to PPS 8. The key policy test in this instance is PPS 8: Open Space, Sport and Recreation. Policy OS 1 Protection of Open Space states the Department will not permit development that would result in the loss of existing open space or land zoned for the provision of open space. However, an exception will be permitted where it is clearly shown that redevelopment will bring substantial community benefits that decisively outweigh the loss of the open space.

An exception will also be permitted where it is demonstrated that the loss of open space will have no significant detrimental impact on the amenity, character or biodiversity of an area and where either of the following circumstances occur:

- (i) in the case of an area of open space of 2 hectares or less, alternative provision is made by the developer which is at least as accessible to current users and at least equivalent in terms of size, usefulness, attractiveness, safety and quality; or
- (ii) in the case of playing fields and sports pitches within settlement limits, it is demonstrated by the developer that the retention and enhancement of the facility can only be achieved by the development of a small part of the existing space - limited to a maximum of 10% of the overall area - and this will have no adverse effect on the sporting potential

The Planning Authority does not believe this proposal will have a significant detrimental impact on the amenity, character or biodiversity of this area. A number of single dwellings are located in close proximity of the application site. Nos. 46 and 44a (2 detached dwellings) are located close to the site's north boundary and no. 44 Chancellors Road (a bungalow) is located a short distance to the north-east. No. 42 Chancellors Road (a bungalow) is located a short distance east of the site. Outline planning permission has been approved for a housing development of 5 dwellings east of no. 42. A two-storey detached dwelling has been approved south of the site under P/2013/0602/F. Bleary bungalows a small housing development of semi-detached bungalows is situated a short distance west of the site. There is therefore a significant amount of existing and committed residential development in this area. This application for 6 dwellings is in keeping with the residential character of the surrounding area and will not have a major impact on the visual amenity of this area. The application site is of an adequate scale to accommodate the proposed 6 no dwellings in an appropriate layout which will not compromise the amenity of the neighbouring dwellings. A concept has been submitted in conjunction with this application which shows 6 dwellings can be accommodated on this site while respecting the character of the surrounding area. The housing density and plot sizes are not out of keeping with that established and approved in the surrounding area. There is no evidence to suggest this proposal will have a significant detrimental impact on the biodiversity of the area.

In considering this proposal under the first exception of OS 1 it is important to first note that this area of open space is less than 2 hectares and measures approximately 0.85 hectares. The applicant Corrinshogo Gaelic Club has secured planning permission for a community sports ground incorporating 2 no. playing fields and a community building on lands along Dorans Hill, Newry approximately 0.8 km south-south-east of the application site. Under P/2009/1135/F full planning permission was approved for the provision of a playing field, ball stops, floodlighting, car parking and associated works on 13.5.2010. Under P/2012/0676/F full planning permission was approved for a community sports ground with 2 football pitches, associated floodlighting, parking, landscaped areas and street furniture on 17.7.14. Under P/2013/0190/F full planning permission was approved for community sports facilities (amended scheme) including changing rooms, community rooms, leisure and recreational gymnasium, toilet and shower facilities, climbing wall and handball/hurling training wall on 5.2.2014.

This committed development which is located under 1Km from the application site meets the test of being at least as accessible to current users as the existing playing field. Under previous permission P/2012/0676/F the applicant advised the 2 playing fields at Dorans Hill will be used by various sporting bodies including soccer, rugby etc. This committed development will therefore be accessible to more of the local population than the existing playing field which is restricted to Corrinshogo Gaelic Club. Incorporating 2 playing fields and a large community building the committed development is bigger in scale than the existing playing field and small club room located on site. The committed development will be more useful than the existing site as it will provide an improved sporting and recreational facility for a wider section of the community. The policy requires that the alternative provision is at least equivalent in terms of size, usefulness, attractiveness, safety and quality and the Planning Authority is of the opinion that the alternative provision made by the developer is greater in terms of size, usefulness, attractiveness, safety and will provide a much greater quality of open space than the current area on Chancellors Road. It is considered that this proposal meets the exception test under OS 1 of PPS 8.

The application does not meet with the exceptions circumstances in (ii) of Policy OS1 as it proposes to develop more than 10% of the overall area of open space.

**PPS 3:**

The proposal fully complies with this policy and Transportni have confirmed they are content subject to conditions.

**PPS7:**

Policy QD1 Quality in New Residential Development of PPS7 Quality Residential Environments states all proposals for residential development will be expected to conform to all of the following criteria:

(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 area;



There is a lot of existing residential development in the surrounding area, including single dwellings and Blearly bungalows to the west. Outline planning permission has also been approved for a small development of 5 dwellings a short distance east of the site. This application for 6 dwellings respects this surrounding context. The site is of an adequate scale to accommodate 6 no. dwellings with plot sizes similar to existing and committed dwellings in the area. In the event planning permission is approved an appropriate layout and appropriate house types can be agreed at reserved matters stage.

With regards to the surrounding context, it must also be noted that there is a large zoning (NY 69) for economic development uses adjacent to the site. The Planning Authority has considered this context and is of the opinion that this proposal, if allowed, does respect this context and is appropriate. As mentioned above, the surrounding context on the ground is primarily residential development. Two existing residential properties separate the site from the zoning to the north, with a residential property to the east and an approval for five houses further to the east. A narrow section of the zoning runs adjacent and west of the site, however this is surrounded by residential properties to the other side of the zoning at Blearly bungalows and so this proposal would respect this context and it should be noted that the only approval for economic development uses in the zoning is at lands at Carnagat Road in the far north east of the zoning, a considerable distance away from these residential properties.

(b) features of the archaeological and built heritage, and landscaped features are identified and , where appropriate, protected and integrated on a suitable manner into the overall design and layout of the development;

Protecting Historic Monuments Unit of Northern Ireland Environment Agency were consulted in relation to this proposal as the site is located close to a standing stone. They did not raise any archaeological objections in relation to this proposal. They have requested the dwellings shown in the north-west corner of the concept plan be relocated within their respective plots to accommodate a buffer zone to protect public views of the standing stone. In the event permission is approved an appropriate layout which takes account of this buffer zone can be agreed at reserved matters stage.

There are no significant landscaped features located on site.

(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 its integration with the surrounding area.

The concept plan submitted in conjunction with this application shows each dwelling will be served by adequate private open space in excess of the 70m<sup>2</sup> recommended in the Department's design guide 'Creating Places.' As the proposal incorporates less than 25 units and the site is less than 1 hectare there is no requirement for public open space.

(d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;

This application only proposes 6 no. dwellings. The provision of local neighbourhood facilities is not considered a reasonable request for such a small scale development. The site is located within the development limit of Newry and local facilities are located within a reasonable distance.

(e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;

The concept plan shows an appropriate road layout and incorporates footpaths catering for the needs of pedestrians. The site is located within the development limit of Newry where public transport is available.

(f) adequate and appropriate provision is made for parking;

The concept plan shows each dwelling is served by at least 2 no. parking spaces.

(g) the design of the development draws upon the best local traditions of form, materials and detailing;

As this is only an outline application full details of house types have not been submitted. In the event planning permission is approved design concerns should be addressed at reserved matters stage.

(h) 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;

The orientation of the dwellings at site 3 and 4 should be re-orientated to prevent any negative impact on the amenity of the existing dwellings to the north. In the event planning permission is approved an appropriate layout ensuring no loss of amenity for existing and proposed dwellings can be agreed at reserved matters stage.

At this point it is also necessary to consider potential adjacent land uses adjacent to the proposal with regards to the economic development use zoning (NY 69). It is considered that the imposition of an appropriate planting scheme, buffer zone, careful siting and appropriate separation distances at the reserved matters stage will prevent any conflict with any potential land uses. As mentioned earlier, an evaluation of the zoning has shown that the only approved lands for economic development uses within the zoning is at lands at Carnagat Road a significant distance away from the proposal. There are no current planning applications being considered by the Planning Authority within this zoning and if any are received, they will be considered carefully in terms of siting, scale, design etc to ensure no conflict with this proposal and other existing residential properties in terms of overlooking, overshadowing, noise or disturbance, thus avoiding conflict and ensuring compatibility with adjacent land uses. Overall, the Planning Authority does not believe that this zoning compromises the approval of this proposal and nor will this approval compromise any future appropriate economic development within the zoning.

(i) the development is designed to deter crime and promote personal safety.

The concept plan shows the curtilage of each dwelling will be enclosed by native species planting. Full details of boundary treatments should be considered at reserved matters stage in the event planning permission is approved.

**PPS6:**

The application site is located within an area of archaeological interest. Protecting Historic Monuments Unit of Northern Ireland Environment Agency were consulted in relation to this proposal. They did not raise any archaeological concerns regarding the proposed development.

The Planning Authority received a telephone call and email correspondence from the objector at 46 Chancellors Road. The objector expressed his concern at Historic Monuments opinion given their requests for archaeological evaluations and requirements to protect public views towards a nearby standing stone in the determination of previous planning applications including his own. The Planning Authority raised the concerns of the objector with Historic Monuments. They advised an archaeological evaluation was not necessary in this instance as earlier evaluations in adjacent fields located no archaeological remains. It is not their policy to continue to ask for archaeological evaluations in an area that has produced no archaeological results. They also advised of a small buffer zone which was imposed in an attempt to preserve the last surviving public views of the standing stone in the determination of the applications for the 2 dwellings now in place to the north of the site. They advised the 2 dwellings shown in the north-west section of the site on the concept plan should be relocated within their respective plots to retain this buffer zone. As this is an outline application a site layout plan will not be approved at this stage but this issue can be resolved at reserved matters stage in the event outline permission is granted.

**Objection received:**

A letter of objection was received on 4th September 2014. This letter was received by the owners of 46 Chancellors Road and was also signed by the owners of 44 and 44 A Chancellors Road.

This letter raises the following grounds of objection:

-The site is zoned as a major area of existing open space in the Banbridge/Newry and Mourne Area Plan. No objection was raised to this zoning during the plan process.

-The Regional Development Strategy (RDS) provides strategic planning guidelines to:

\*create healthier living environments and support healthy lifestyles

\*facilitate access to a range of opportunities for recreational and cultural activities

The RDS also encourages 'the protection and enhancement of open spaces and playing facilities for the long term benefit of the whole community.'

-Major areas of existing open space are safeguarded under Policy OS1 of PPS8.

-The existing use of the site has been incorrectly detailed on the P1 application form. The site is still currently used by Corrinshogo Gaelic Football club. Printed extracts of and a link to Corrinshogo Gaelic Club website are attached to the letter as proof of the current use. (Printed extracts are dated 29.7.14).

A further objection was also received from No.46 Chancellors Road via email. In this they advise under the open space audit of the larger settlements in the Newry and Mourne District there is an overall deficit of 13.7% of outdoor playing space.

Agent's rebuttal:

An email was received from the agent addressing the points raised in the letter of objection. A summary of this is outlined below:

- The objector lodged a letter of concern over Corrinshogo GFC previous application P/2010/0919/F which sought to develop and improve their facilities at the existing site. These concerns included the negative impact on the amenity of his dwellings. He also queried the validity of the playing field.

-Despite much effort to make the application site function, the restricted plot size means a relocation is required. A statement from Corrinshogo GFC detailing the restrictions of existing site and efforts made to make the existing site viable is included in the letter.

-The playing field is not public open space. It is a sporting facility for club member usage and pre-invited guests.

- No objection was made to the open space zoning during the preparation of the plan as at that time it was an existing playing field but the site has since been rendered as defunct.

-Site is located within a semi-rural environment . There is no high density urban encroachment to warrant protecting the defunct playing field.

-The relocation will enhance long term sports and playing facilities in the area for the whole community.

-The proposal is an essential fund raising element to fund the provision of the approved community development.

### **Consideration of objection:**

-The site is zoned as a major area of existing open space in the Banbridge/Newry and Mourne Area Plan 2015. PPS8 does apply a presumption against the loss of existing open space however it does note a number of circumstances where an exception to this will be permitted. As detailed in the consideration above this proposal is considered to comply with exception as the loss of open space will have no significant detrimental impact on the amenity, character or biodiversity of the area and (i) in that the applicant has made alternative provision which is at least as accessible to current users and a greater improved provision in terms of size, usefulness, attractiveness, safety and quality with the scheme approved at Dorans Hill which incorporates 2 no. playing fields and a large community building.

-The Regional Development Strategy provides strategic guidance. Planning Policy 8 is the operational policy most relevant in the determination of this proposal.

-From the extracts of Corrinshago Gaelic Club website submitted by the objector it would appear the site was still in use as a playing field on 29.7.14. This would not deem the application contrary to Policy OS1. Appropriate alternative provision has been approved nearby.

-As the applicant has secured permission for an alternative larger outdoor playing space under 1Km away, this proposal will not exacerbate the deficit identified in the open space audit.

It must also be highlighted that this proposal was agreed as an approval by the former Newry & Mourne Council, however due to MLA intervention the application was not issued as an approval and was deferred for an office meeting. At this meeting the objector repeated their concerns to the Senior planning officer. These concerns have been dealt with throughout the course of this report and do not warrant a change of opinion. The objector also submitted a letter to the Department in December 2014 outlining concerns that under paragraph 5.5 of PPS 8 applicants will generally be expected to demonstrate that their proposals are supported by the local community and questioned why this application is being approved without this and why the 10% rule under exemption 2 of the policy does not apply. In response to this, paragraph 5.5 only applies when the proposal is being approved on the basis that redevelopment will bring substantial community benefits that decisively outweigh the loss of open space and the 10% rule does not apply as mentioned earlier in this report. The proposal only has to comply with one exception and not both under this policy and it complies with exception 1. The objector also queried how this can be approved in view of the latest comments from NIEA Historic Monuments Unit. However, Historic Monuments Unit have confirmed that they have no objections and any concerns regarding buffer zones and the standing stone can be dealt with and agreed with the Planning Authority at the reserved matters stage as it is the red outline which is recommended for approval at this outline stage. A condition will also be applied to this outline approval with regards to the ridge heights of properties in the sightline of the monument, in line with the comments of Historic Monuments Unit. The objector also outlined their legal background and made reference to a judicial review on any decision to approve. All of these concerns have been fully considered and do not warrant a change of opinion.

**Recommendation:**

Approval is recommended, subject to appropriate conditions.

**Case Officer****Authorised Officer**

## Conditions

1.As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserved matters shall be made to the Department within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

i. the expiration of 5 years from the date of the grant of outline planning permission;  
or

ii. the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved

Reason: Time Limit

2.Approval of the details of the siting, design and external appearance of buildings, the means of access thereto, pathways, cycle track and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Department, in writing, before any development is commenced.

Reason: To enable the Planning Authority to consider in detail the proposed development of the site.

3.Full particulars, detailed plans and sections of the reserved matters required in conditions 1 and 2 shall be submitted in writing to the Planning Authority and shall be carried out as approved.

Reason: To enable the Planning Authority to consider in detail the proposed development on the site.

4. No residential unit/ dwelling within the area delineated in orange on drawing No. 01 stamp dated 6th August 2014 shall have a ridge height more than 6 metres above finished floor level.

Reason: In the interests of visual amenity.

5. No more than 6 dwellings shall be erected on this site.

Reason: To ensure that sufficient amenity space is provided for each dwelling.

6. The proposed dwellings outside of the area shaded orange shall have a ridge height no higher than 7.5 metres above finished floor level.

Reason: To ensure that the development does not effect the amenity of neighbouring residents.

7. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

8. No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been approved by the Department, and all tree and shrub planting shall be carried out in accordance with those details and at those times.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

9. The plans and particulars submitted in accordance with Condition 8 above shall include details of the site preparation, planting methods, medium and additives together with the species, size and time of planting, presentation, location, spacing and numbers of all trees and shrubs to be planted and the proposed time of planting.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

10. All services shall be laid underground

Reason: in the interests of visual amenity

11. None of the dwellings shall be occupied until works for the disposal of sewerage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted and approved by the Planning Authority.

Reason: In the interest of public health.

The Objectors  
46 Chancellor's Road  
Newry  
Residents 46,44,46A Chancellor's  
Road Newry Co Down

18 October 2016

Reference P/2014/0653/O

To the Planning Committee – Newry, Mourne and Down District Council

We welcome the opportunity to put forward the following points in relation to the above application.

1. Site history. In the case officer's report under site history the only reference is P/1992/0661 – change of use to provide GAC pitch was approved on 16/01/1993. But under planning application P/2009/0412/f Corrinshogo have already secured planning on Mr Eugene Clarke's land for a change of use from an agricultural field to a playing field including provision of ball stops, floodlighting and associated works replacing the existing fields at Martin's Lane. Indeed the planning permission on Mr Clarke's land has been acted on by way of completing all the drainage works, reseeding etc. (See attached two photos – reference Clarke). Simultaneously they were also granted permission at Doran's Hill under P/2009/1135/f and P/2010/0037/f for the Doran's Hill site. How is this possible?
2. We contend that just because the applicant has secured permission for an alternative larger outdoor playing space under 1km away, the proposal will still exacerbate the deficit identified in the open space audit. How could it not, the application site is 0.85 hectares in size? Concerning open space provision in the Newry and Mourne district, an overall deficit of 13.7% of outdoor playing space is revealed when measured against the recommended NPFA standards (paragraph 6.3 of page 26 of technical supplement 5 open space, sport and outdoor recreation). In addition the former play area at Bleary Bungalows is now defunct. This is now waste land and is the subject of illicit dumping (please find enclosed copy of briefing note from Newry and Mourne Council.) The application site forms a major area of open space and accordingly ought to be retained as such, as it is of considerable value to the amenity, character and biodiversity of our local area. From a health and safety perspective the new site is clearly not as accessible to users of the existing space which is paramount under paragraph 5.6 of planning policy statement 8. The footpath does not extend the entire distance from Bleary Bungalows to the Doran's Hill site, street lighting is not present, not to mention the dangers of proceeding under the Red Bridge.
3. Under PPS 8 Paragraph 5.7 it states where an exchange is acceptable in principle the Department will secure this through use of planning conditions or where appropriate a planning agreement under article 40 of the planning NI order 1991. This will tie redevelopment to the provision of the new facility and ensure that this is capable of being maintained adequately through appropriate management agreements. In the event of an approval how does the Department intend to proceed?



In the agents rebuttal letter (dated the 30<sup>th</sup> September 2014 sent on the 3<sup>rd</sup> October 2014 yet only appeared on the EPIC website on the 8<sup>th</sup> December 2014) the last paragraph states 'this current application forms a fundamental element to the provision of this enhanced sporting facility.'

In essence just because Corrinshago had to pay out substantial monies to a local landowner for breach of contract should not act as a gateway to obtaining planning in this area of existing open space inevitably to sell off the sites to recoup their loss. Hence the need for a robust article 40 agreement.

This particular point was put to Mr A Davidson, the Senior Planner, at a meeting on the 23<sup>rd</sup> December 2014 with Councillor Taylor in Mr D Kennedy's office Markethill. During this Mr Davidson stipulated that this application clearly fell under article 40 and in his own words a 'massive condition would be attached' to an approval if granted which would mean completion of all planning approvals on the Doran's Hill site before the open space the subject of this application could be developed.

Finally our architect has advised us that in light of the NIEA concerns regarding views to and from the standing stone a revised concept plan ought to have been submitted before arriving at this stage. The required buffer zone imposed by NIEA ultimately mean a reduction in the number of dwellings.

We trust the planning committee will take these points into account in considering this application.

Yours Faithfully

The objectors 46,46a and 44 Chancellors Road Newry.

It was also agreed to ask the Council's Valuers to re-evaluate the valuation which provided as per 6 September 2012, as the Council feel the valuation given was too high.

**F/248/2012:- LAND AT LISMORE PARK, CROSSMAGLEN  
(REF: R/S201)**

**Read:** Report of Slieve Gullion Councillors Meeting held on Monday 12 November 2012 regarding land transfer issues involving Council land at Lismore Park, Crossmaglen (copy circulated).

The report recommended the following:-

1. Mr McCall, Mr McGivern and Crossmaglen Rangers GFC Representatives to meet with Council's Solicitor to agree alternative wording of the option to purchase clause which would allow for Crossmaglen Rangers to have first option to purchase, with purchase price being at recreational land value and, if possible, taking account of the Club's contribution to improvements to the land.
2. Following the above meeting Mr McCall and Mr McGivern to meet with the appropriate Official at the Department of the Environment to agree the alternative wording for the lease agreement.

**Agreed:** On the proposal of Councillor Flynn seconded by Councillor M Murphy it was agreed to approve the above report and the recommendations contained therein.

**Read:** File note of meeting held Mr McShane, Solicitor on Thursday 15 November 2012 to discuss issues relating to proposed transfer of lands at Lismore Park, Crossmaglen to Crossmaglen Rangers GFC (copy circulated).

**Noted:** It was agreed to mark the above report 'Noted'.

**F/249/2012:- LAND AT BLEARY BUNGALOWS, CHANCELLORS ROAD,  
NEWRY  
(REF: R/S77/42)**

**Read:** Briefing note regarding the former play area site at Bleary Bungalows, Chancellors Road, Newry:- (copy circulated).

- The Council has leased this site from NIHE since 1979 on a 10,000 year lease basis for informal play area use. Play equipment was removed from the site some years ago.
- Encroachments exist and it has been agreed to try to regularise the situation by offering the land concerned to the residents at a price to be agreed by land and property services.
- An updated valuation report was received dated 21 June 2012. At the Finance Committee Meeting August 2012 it was agreed to advise the

landowners involved of the valuations and that in the event the landowners do not accept the offer to purchase the sites at the valuation figures, that the situation be reviewed.

- The concerned landowners have been advised of the valuations and asked to confirm to the Council by 31 October 2012 if they wished to proceed with this matter. No replies have been received to date.
- It was noted that the land in question was creating a nuisance and was attracting illicit dumping. Council are continuing to maintain this land but NIHE will not take the land back until such times as encroachment issues have been resolved.

**Agreed:** It was unanimously agreed the Council write once again to the residents at Nos 3, 4, and 5, Bleary Bungalows requesting the residents to reply to the Council within 30 days indicating if they wished to accept the offer to purchase the land which is the subject of encroachment. The Council to also advise the residents that should a reply not be received within the stipulated timeframe, the Councils next option will be to institute legal action to have encroachment issues resolved. This correspondence is to be sent via recorded delivery.

**F/250/2012:-** LAND AT ST LUKE'S CHURCH, MEIGH  
(REF: R/S30)

**Read:** Briefing note regarding former Church of Ireland at Meigh. (Copy circulated):-

- The Council acquired the Church and Graveyard. There are restrictive covenants on the title.
- Since acquisition there has been a number of expressions of interest regarding purchase. At one stage the Council were considering disposal of the property.
- The Council agreed to retain the land and building subject to works to secure the property to be carried out.
- An enquiry has been received asking if the Council would be interested in selling or allowing a preservation trust to step in and take responsibility for the building.

**Agreed:** On the proposal of Councillor Murphy seconded by Councillor Moffett it was agreed a Slieve Gullion Area Councillors Meeting be convened with Mr Deaglan Mulgrew, who has expressed an interest in the former Church of Ireland property at Meigh. In the interim the Council to forward a copy of the conditions of the Restrictive Covenants provided in the title relating to this property, to Mr Mulgrew.

**F/251/2012:-** LAND AT JFK PARK, BALLYRUSSELL, WARRENPOINT  
(REF: R/S77/62)







**Planning Reference:** P/ 2014 / 0653/O

Proposed 6 no. sites for Dwellings at Corrinshago G.F.C., 40A Chancellors Road,  
Newry, County down

Application was submitted.

Application was assessed by planning dept.

All relevant consultations were returned , with favourable decisions to approve.

Objections were raised.

Objections were assessed.

Objector actually contacted the Consultees directly and raised his / her issues.

Consultee confirmed favourable decision to approve.

Decision of approval was reached at group meeting

Approval taken to Council meeting.

No further new information was produced by objector.

Decision to issue approval was instructed.

Years later we are still chasing the approval certificate.

Eventually Planners revisit the decision, even after the objector stated his intention to seek a judicial review should approval be issued. Planners take due care assessing the decision as there was a strong objection.

Planners have again reached a decision to approve.



### **Objectors mains concerns seem to be...**

Loss of open space. However in a previous objection, he did not want the open space to be developed. His objections seem to change based on the type of application.

He also has concerns about the view to standing stones. However these concerns did not feature in his own initial applications to develop his land. Only after consultee instruction during the planning process, did the objector amend his plans.

Objector seems to be worried that Thomas Davis have numerous planning applications and wonder how many goes they get at applications, yet he is still having many goes at objecting.

The objector is concerned about the loss of open space and yet has developed and is in the process of developing his own land.

The Thomas Davis site is not and has never been public open space, it is private land, just like the objectors. If the objector is so concerned about open space, perhaps he should consider allocating some from his private land.

The objector did not want Thomas Davis to develop this land in order to allow the facility to function. Given this object and the latest objection to the current application, we are perplexed as to what would please the objector for this sites functionality.

Thomas Davis will adhere to any Consultee recommendations.

If you wish to discuss any of the above please contact me .

Kind Regards,

John Feehan

19 October 2016

Thomas Davis GAC is a voluntary sports organisation that provides football for both boys and girls from Under 6 to Senior level in which we have 12 separate teams (7 male & 5 female teams). Each of these team's train & play games at least two to three times per week

The small field at Chancellors Road could only ever cater for games up to under 14 level due its small size (90 metres x 50 metres approx.) therefore all games at Under 16, 18 & Senior all had to be played away, placing the club under constant financial pressure for the hire of pitches for home games and halls for training purposes, so the demand for full size playing facilities has always been there.

The club acquired a new site at Doran's Hill, which is less than 1 kilometre from the Chancellors road pitch & built a new full size pitch in 2014 which has now been operational for the 2015 & 2016 seasons.

However, the facilities are completely inadequate to our demands as there is only one temporary changing facility with one toilet and one shower room located at the new facility. This unit is without electric, water and sewerage.

We are currently working with the service providers to bring these services to the site plus add another similar type container unit as a second changing room and a unit as a public toilet facility but the costs are extremely high. For example, the electric connection is £10,000, water connection is £6650, sewerage plants are typically £10,000.

Therefore, it was hoped that the sale of the property at Chancellors Road would help bridge this financial need to get these services in place to cater for our teams.



**PLANNING (NI) ORDER 1991  
APPLICATIONS FOR PLANNING PERMISSION**

<b>ITEM NO</b>	28			
<b>APPLIC NO</b>	P/2015/0182/F	Full	<b>DATE VALID</b>	3/2/15
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>			
<b>APPLICANT</b>	Mr Norman Reilly 26 Shore	<b>AGENT</b>	Ronan Downey	
	Annalong BT34 4TU		Avenue Belfast BT9 6EW 02890 660267	
<b>LOCATION</b>	26 Shore Road Annalong Moneydorrugh More Co. Down BT34 4TU			
<b>PROPOSAL</b>	Proposed development of 4 dwellings			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	11	0		1
			<b>Addresses Signatures</b>	
			5	5
			0	0



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** P/2015/0182/F

**Date Received:** 2<sup>nd</sup> March 2015

**Proposal:** Proposed development of 4 dwellings

**Location:** 26 Shore Road, Annalong, Moneydorrugh More, Co. Down, BT34 4TU

**Site Characteristics & Area Characteristics:**

This is a coastal site containing an existing dwelling and its curtilage. The dwelling is a low two storey structure with smooth rendered walls with a ruled and lined finish. The roof is flat concrete tiles and the windows are brown PVC. The dwelling backs onto Shore Road to the west and sits below the road level. There is a block wall along the remainder of the western site boundary. To the east of the dwelling is a private garden containing some outbuildings. It is enclosed by walls and has a raised bank beyond it to protect it from the coast. There is a public right-of-way footpath along the coast beyond the site.



Existing dwelling from coastal path



Existing dwelling from Shore Road

The site is within the development limit of Annalong, as defined on the Banbridge, Newry and Mourne Area Plan 2015. It is located towards the eastern edge of the settlement and is unzoned. It is within an Area of Townscape Character and an Area of Archaeological Potential, and also the Mournes and Slieve Croob Area of

Outstanding Natural Beauty. The area is predominantly residential in nature. The area is characterised by a mix of house types and sizes and by the narrow street.

#### **Site History:**

Application P/2007/0644/F for Erection of residential development (4 village/town houses) on the site was approved on 10<sup>th</sup> August 2010. The approved scheme had a smaller footprint and lower ridge line than the present application as parking and ancillary facilities were provided below ground. It was found not to be economically viable to build this development with an underground element. However, the permission remained live when the present application was submitted and weight can be given to it in the determination of the new application.

The present application was initially submitted for five dwellings, but following concerns raised by the Council regarding overdevelopment of the site and open space provision, it has been reduced to four units.

As permission is required to demolish the existing dwelling in an ATC, an application for demolition consent was made on 1<sup>st</sup> August 2016 (Ref: LA07/20161089/F). This has now completed its statutory process and will be determined under the Council's Scheme of Delegation, though the decision will be held pending the Planning Committee's decision on the redevelopment application.

#### **Planning Policies & Material Considerations:**

- The NI Regional Development Strategy 2035
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry & Mourne Area Plan 2015
- PPS2 – Natural Heritage
- PPS3 – Access, Movement & Parking
- DCAN15 – Vehicular Access Standards
- Parking Standards
- PPS6 – Planning, Archaeology and the Built Heritage
- Addendum to PPS6 – Areas of Townscape Character
- PPS7 – Quality Residential Environments – Policy QD 1
- Addendum to PPS7 – Safeguarding the Character of Established Residential Areas
- PPS8 – Open Space, Sport and Outdoor Recreation
- DCAN8 – Housing in Existing Urban Areas
- PPS12 – Housing in Settlements
- A Planning Strategy for Rural Northern Ireland (Policies DES2 & SP18)
- Creating Places
- Living Places Urban Stewardship and Design Guide

#### **Consultations:**

TransportNI – No objections on access or road safety grounds (on the basis that the development will remain private and streets will not be adopted).

NI Water – Public water supply and foul sewers available with capacity to serve the development.

NIEA – Historic Environment Division had concerns about the initial proposal as it would affect the setting of the listed Annalong Harbour. They are content with the

revised scheme subject to a condition that the front elevations are rendered and eaves are noted as clipped or flush. This has now been shown on the plans, so the condition is not required. A developer-funded programme of archaeological works should also be conditioned. Water management Unit provided standard advice on sewerage & drainage. Marine Division and Natural Heritage indicated that there were no likely impacts on designated sites, though a Test of Likely Significance would be required in accordance with the Habitats Directive.

Environmental Health – No objections provided the development is connected to the public sewerage system.

Shared Environmental Services – Test of Likely significance carried out. There will be no likely impacts on existing or proposed European sites provided a mitigation condition is imposed restricting the area where refuelling and concrete mixing can take place.

### **Objections & Representations**

The application was advertised in the press on 27<sup>th</sup> March 2015 and the reduced scheme for four dwellings was advertised on 20<sup>th</sup> April 2016. Ten neighbouring properties were notified on 11<sup>th</sup> May 2015, and on two subsequent occasions when the plans were amended.

A petition of objection with five signatures was received on 26<sup>th</sup> May 2015. A letter of objection from the owner of the adjoining property was received on 27<sup>th</sup> May 2015. After the plans were amended, an objection letter was received from Shore Road Residents Association (and copies of the same letter signed by residents from 6 different addresses – some of whom had signed the original petition). An email on behalf of the Shore Road residents was received from Councillor Glyn Hanna. An enquiry about the progress of the application was received from Councillor Henry Reilly. There have been no further objections since the scheme was reduced to four units.

The issues raised by objectors include overdevelopment of the site, increase in traffic/parking, sewage capacity, no need for the additional housing, impact on property values, depriving existing houses of views of the sea, inappropriate character for the AONB, parking blocks a right of way, design not in keeping with the area, restricted access to sewage pumping station, inadequate sea defences and the possibility that the houses will become holiday homes. Cllr. Hanna also stated that the applicant does not own title to the site, but did not provide any evidence in support of this statement.

In response, it is considered that the issues of design, character and overdevelopment have been addressed by the final revised scheme for four units. Parking is in accordance with the required standards and there are no objections from TransportNI. It is not near the coastal right-of-way maintained by the Council which will remain unaffected. The planning permission will not extinguish any right of way and an informative will be attached to this effect. NI water has advised that there is available sewage capacity for the development. There is no planning requirement to demonstrate housing need in this urban area and neither is there any reason to restrict the use of the dwellings as holiday homes. There is no right to a private view of the sea and the value of other properties is not a material planning consideration. There is no indication that the site is liable to flooding, or that access to the pumping station is insufficient. Despite the assertion that the applicant does not have title, we

have no evidence that any other party has an interest in the land outlined in red, so there is no reason to delay the application on this basis. An informative will be attached advising that the permission does not confer title. In summary, the issues raised cannot be given determining weight in assessment of the amended scheme.

### **Consideration and Assessment:**

#### STRATEGIC POLICY

RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. It aims to provide more high quality accessible housing within existing urban areas without causing unacceptable damage to the local character and environmental quality or residential amenity of these areas. 60% of new housing is to be located in appropriate 'brownfield' sites within the urban footprints of settlements. This is a previously developed urban site and so the proposal is in keeping with these objectives.

The SPPS sets out core planning principles to be employed in the quest to achieve sustainable development. Of particular relevance to this application are the aim of supporting good design and positive place making while preserving and improving the built and natural environment. The design of the scheme has been amended during the course of the application in response to the Council's concerns. These matters will be assessed under operational policy below.

The SPPS also addresses housing in settlements. It repeats the planning control principles listed in PPS12. The proposal complies with these as follows:

- *increased housing density without town cramming* – the proposal will increase the housing density in this area without erosion of local character, environmental quality or amenity. The design draws on some of the characteristics of adjacent development including roof style, pitch and finish, and wall finishes. For further consideration of these issues, see 'urban design' below.
- *sustainable forms of development* – the use of sites like this within the urban footprint is more sustainable than one-off housing developments outside development limits and is therefore to be encouraged. There are local facilities and services available at the centre of the village which is at walking distance from the site.
- *good design* – The design of the amended scheme successfully respects the context of the area. The architectural elements are well proportioned in relation to surrounding development.
- *balanced communities* – as this proposal is for a small development, there is limited scope to provide different unit sizes within the building and the developer will not be required by condition to provide any social housing.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located within the settlement limit of Annalong on the above Plan, and is unzoned. The Housing Growth Indicators in the plan make provision for additional housing development on unzoned 'windfall sites' such as this. The principle of the development is therefore considered acceptable having regard to

the provisions of the development plan and the history of approval for four units on the site.

The site is also within an Area of Townscape Character and an Area of Archaeological Potential, and the Mourne and Slieve Croob Area of Outstanding Natural Beauty. Impact on these designations will be considered under regional policy below.

### URBAN DESIGN

Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design of the buildings has been amended during the course of the application to ensure that they are more in keeping with their surrounding context which includes larger two storey dwellings opposite. Siting of the dwellings is dictated by the line of two existing sewers to the west and east of the site. The proposed dwellings will have a traditional frontage onto Shore Road to the west with a high solid to void ratio and dormers to first floor level. The building line is gently staggered which creates the impression of a finer urban grain. They will have a traditional white painted render finish. The rear elevation will take advantage of views over the coast and displays larger openings and a combination of materials including white render, Mourne granite and larch timber cladding. The scheme takes account of the characteristics of the site. The style of the buildings is quite modern, but makes use of traditional proportions and materials. The amended scheme with the units reduced to four is considered acceptable for this part of the settlement. The site is within walking distance of public transport and local services. No traffic calming measures are required. The design and layout will not create conflict with adjacent land uses and there will be no unacceptable amenity impact on surrounding dwellings as a result of overlooking or loss of light. The main impact would be on the smaller dwelling No. 30 to the south. The main part of the building will be 2.6m higher than No. 30. With only an ensuite and landing window in this gable overlooking should not be a problem. Being to the south, light to this dwelling should not be unduly restricted. The owner was concerned that the foundations for the new dwelling could impact on his property. The agent has advised that a raft foundation will be used so that no digging is required adjacent to the party boundary. The proposal will increase the separation distance from other properties across Shore Road to the west compared to the existing situation. The development will provide improved informal surveillance over both Shore Road and the coastal zone, helping to deter crime and promote personal safety. The development relates satisfactorily to its townscape setting. The proposed density and development pattern is in keeping with that found in the area where most houses are terraced.

### OPEN SPACE

Amenity space at each dwelling is limited by the relatively large footprint of the dwellings and limited site depth, with two close to the minimum requirement of 40 sq.m in Creating Places. A previous proposal that included the shore area down to High Water Mark as part of the amenity space was rejected as this was not within the site outlined in red and would have interfered with a public right of way along the coast. On balance, the scheme is considered a great improvement to the previous permission where there was no private amenity space provided within the site and the limited private open space provision is balanced by the inclusion of balconies and the opportunities in the wider area for walking and recreation. Given the small

scale of the scheme, the developer should not be required to provide any local neighbourhood facilities or public open space as part of the development.

#### ACCESS AND PARKING

TransportNI has no objections to the amended proposal on grounds of the access and six parking bays will be provided along the northern gable of the new dwellings. This is in keeping with the requirements of *Parking Standards* for unassigned spaces in this type of development. The proposal would not result in a significant increase in traffic congestion or be a hazard to road safety. No roads conditions are required.

#### DRAINAGE AND SEWERAGE

NI Water advised that public water supply and foul sewers were available with capacity to serve the development. A condition should be imposed to ensure that development does not commence until the method of sewage disposal has been agreed in writing with NI Water or a consent to discharge has been granted, in the interest of public health. It is intended to use soakaways to dispose of surface water as no storm sewer is available.

#### ARCHAEOLOGY

The site is within an Area of Archaeological Potential. Historic Environment Division was consulted and requires conditions to be imposed to secure a developer-funded programme of archaeological works on the site in advance of new construction, in accordance with policy BH4 of PPS6.

#### BUILT HERITAGE

The site is within an Area of Townscape Character and in proximity to Annalong Harbour which is listed under Section 80 of the Planning Act. Historic Buildings Unit initially objected to the design and scale of the proposal, but are content with the revised scheme subject to a condition that the front elevations are rendered and eaves are noted as clipped or flush. The existing building on the site is traditional in nature, but not of great architectural merit or particularly distinctive and its removal along with the inappropriate breeze-block wall to the south in order to make way for an agreed redevelopment scheme should not harm the character of the ATC. The proposed demolition is not contrary to policy ATC1 of the Addendum to PPS6. The design of the proposal respects some of the key features referred to in the ATC designation in the Area Plan, notably the terraced building form fronting onto the road, and the use of smooth painted render, natural slate and dormers. The proposal respects the built form of the area and will maintain or enhance its overall character as required by policy ATC2.

#### AREA OF OUTSTANDING NATURAL BEAUTY

Policy NH6 of PPS2 applies to development within Areas of Outstanding Natural Beauty. The proposal is of an appropriate design, size and scale for the locality, and in keeping with the character of the area. The detailed design draws on local architectural styles and patterns, boundary treatments and external finishes are appropriate for this urban location and traditional local finishes such as painted render and Mourne Granite are used.

#### IMPACT ON DESIGNATED SITES

There is a hydrological linkage from the site to Murlough SAC and the site is in proximity to the proposed extension to Carlingford Lough SPA / Ramsar site. Shared

Environmental Services carried out a Test of Likely significance as required under the Habitats Regulations. There will be no likely impacts on the integrity of the European sites provided a mitigation condition is imposed restricting the area where refuelling and concrete mixing can take place.

**Recommendation:** Approval

**Conditions:**

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. No development should take place on site until the method of sewage disposal has been agreed in writing with NI Water or a consent to discharge has been granted.

REASON: In the interests of public health.

3. Each building shall be provided with such sanitary pipework, foul drainage and rain water drainage as may be necessary for the hygienic and adequate disposal of foul water and rain water separately from that building. The drainage system should also be designed to minimise the risk of wrongly connecting the sewage system to the rain water drainage system, once the buildings are occupied.

REASON: In order to decrease the risk of the incorrect diversion of sewage to drains carrying rain/surface water to a waterway.

4. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Department for Communities. The programme should provide for the identification and evaluation of the archaeological remains within the site, for mitigation of the impacts of the development through excavation recording or by preservation of remains and for the preparation of an archaeological report.

Reason: To ensure that archaeological remains within the application site are properly identified and protected or appropriately recorded.

5. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department for Communities to observe the operations and to monitor the implementation of archaeological requirements.



Reason: To monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition or agreement, is satisfactorily completed.

6. There shall be no refuelling, storage of oil, machinery, spoil, concrete mixing and washing areas within 10 metres of the eastern side of the red line boundary.

Reason: To protect the site selection features and conservation objectives of Carlingford Lough Marine Proposed SPA.

7. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the development.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

**PLANNING (NI) ORDER 1991  
APPLICATIONS FOR PLANNING PERMISSION**

**Council Newry, Mourne and Down**

**Date 10/26/16**

<b>ITEM NO</b>	<b>D1</b>			
<b>APPLIC NO</b>	P/2013/0102/F	Full	<b>DATE VALID</b>	2/1/13
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Patrica McAvoy and Ursula McGivern 28 Mount Pleasant Newry BT34 2AW		<b>AGENT</b>	Raymond Mullen 28 Mount Pleasant Newry BT34 2AW 07707675976

**LOCATION** No.103 Greencastle Pier Road Greencastle kilkeel

**PROPOSAL** Proposed change of use from domestic store to coffee bar

<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0

- 1 The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of (2.0 metres x 45 metres) cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.
- 2 The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, in that it would, if permitted, prejudice the safety and convenience of road users since adequate provision cannot be made clear of the highway for the;
  1. parking
  2. turning
  3. loading and unloading of vehicles which would be attracted to the site.
- 3 The proposal is considered contrary to paragraph 52 of PPS1 General Principles in that, if permitted, would adversely affect the amenities neighbouring properties No. 103 and 103a by reason of loss of privacy and general disturbance.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** P/2013/0102/F

**Date Received:** 01/02/2013

**Proposal:**

Proposed change of use from domestic store to coffee bar.

**Location:**

No.103 Greencastle Pier Road, Greencastle, Kilkeel.

The site is located in Greencastle approximately 5 miles south-west of Kilkeel.

**Site Characteristics & Area Characteristics:**

The site consists of 2 dwellings No. 103 and No. 103a, each with their own detached ancillary garage/store. In keeping with the majority of dwellings along this frontage, the properties are two storeys with front elevations fronting on to Carlingford Lough. Property 103 forms the end of a terrace of 6 2 storey dwellings. 103a is detached and located closer to the road edge. It would appear that both dwellings share the same access and both share a common amenity area which separates them.

The site is located within the Development limits of Greencastle GE 01 as designated in the BNMAP Plan 2015. It also falls within the Mournes AONB and an Area of Archaeological potential. It lies adjacent to LLPA designation GE 02 'Greencastle' whose features include a scheduled monument 'The Motte' which is located north and adjacent of the site. The ruins of Green castle are located further east. The whole site is set in attractive natural surroundings which with associated views towards Carlingford Lough.

**Site History:**

The following planning applications have been submitted on this site:

1. P/1989/1402 – Extension and improvements to dwelling – granted 15/02/1990.
2. P/2003/0612/F – Conversion of boat house to dwelling unit (to include extension) – granted 05.12.2003
3. P/2007/0848/F – Retention of change of house type and 2 domestic stores – granted 10/03/2008

**Planning Policies & Material Considerations:**

- Regional Development Strategy 2035.
- Banbridge / Newry and Mourne Area Plan 2015.
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- PPS 2 – Natural Heritage.
- PPS 3 – Access, Movement and Parking.
- PPS 16 – Tourism.
- DCAN 4 – Restaurants, Cafes and Fast Food Outlets.
- DCAN 15 – Vehicular Access Standards.

**Consultations:**

Consultations have been sent to Roads Service, Environmental Health, NI water and NIEA Historic Monuments given the sites location in close proximity to a scheduled monument.

- Environmental Health have raised no objections provided the proposal is connected to the public sewerage system as indicated.
- Water Service has raised no specific objections.
- Historic Monuments have raised no objections to the proposal.
- Roads Service has advised that the application should be refused on grounds of road safety. The following reasons for refusal have been suggested;
  - a. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of (2.0 metres x 45 metres) cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.
  - b. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, in that it would, if permitted, prejudice the safety and convenience of road users since adequate provision cannot be made clear of the highway for the -
    1. parking
    2. turning
    3. loading and unloading
    - of vehicles which would be attracted to the site.

**Objections & Representations**

Neighbour notification has been carried out as appropriate and the application has been advertised in accordance with the Department's statutory obligations. At the time of writing no third party objections have been received. The application was advertised in the local press on 12/02/2013 and ten neighbours were notified by letter.

**Consideration and Assessment:**

Approval is sought for change of use from an existing domestic store/garage to a coffee shop.

Use for the sale of food or drink for consumption on the premises is excluded from any class specified in the Planning (Use Classes) Order (Northern Ireland) 1989, and use for the retail sale of hot food is explicitly excluded from Class 1 (Shops) of the

Schedule to the Order. In terms of their uses, cafés (restaurants and fast food outlets) are therefore quite distinct from retail shops.

Guidance on, and criteria for the acceptability or otherwise of retail and/or non-retail uses in town centres, district and local centres, local shops, village shops and rural shops are included in SPPS. There are also day visitors to Greencastle, to the beach and to the historic castle. Therefore there would be a tourist requirement under TSM 1 Tourism in Settlements. This proposal would serve both the tourist need together with a local facility also.

The applicant has indicated that the facility is intended to serve the local community of Greencastle only, and in particular local bird watchers and community groups. The footprint of the building is less than 40 square metres with a 4 m ridge height. It expects to attract 10 vehicles/40 visitors per day. The internal layout arrangement indicates seating for a maximum of 13 people. It is clear that the proposal is small-scale in nature. In terms of SPPS there is sufficient merit in my view for the proposal to be considered acceptable in principle.

The facility also has the potential to attract visitors beyond the immediate settlement and catchment area due to its natural surroundings and local historical and archaeological interest for e.g. the ruins of Green castle. Although not applied for as such, there is also some merit in the proposal as a tourism amenity site. Policy TSM 1 of PPS 16 Tourism allows for this type of development within settlements provided it is of a nature appropriate to the settlement, respects the site context in terms of scale, size and design. Although it may be acceptable in terms of nature, size and design, there are concerns with the overall scale of the proposal. This is particularly reflected in terms of the sites inability to provide sufficient space for parking, turning, loading and unloading of vehicles. The proposal would also result in the intensification of an existing access and falls short of DCAN 15 standards in term of required visibility splays i.e. (2.0 metres x 45 metres).

Guidance contained within DCAN 4 - Restaurants, Cafes and Fast Food Outlets outlines the factors that need to be taken in to account when assessing applications for cafes. This includes traffic considerations. In response to the concerns raised by TNI (highlighted above) the applicant submitted a revised layout plan, indicating 10 parking spaces including 2 disabled parking spaces. This amended layout however cannot be considered as part of the proposal as the car-parking spaces are shown located outside the boundaries of the application site. The concerns with the proposal in terms of road safety are therefore insurmountable in my view and contrary to policy AMP 2 and Amp 7 of PPS 3 Access movement and Parking.

DCAN 4 also advises that the issues of noise, smells, fumes, refuse and litter should also be taken into account when assessing proposals for cafes. Planning applications for cafes, especially those in proximity to residential dwellings can often be contentious by nature. Environmental Health have been consulted with the proposal and have raised no specific objections in this regard. All operations will be conducted internally and there is no indication that any food or drink would be consumed off premises. The potential for any adverse impact in terms of /smells/fumes/refuse and litter is therefore limited in my view. Appropriate opening hour restrictions can be can be applied in the event of an approval to further restrict any potential noise disturbance on nearest neighbours.

It is clear from the layout of the buildings that there is a distinctive relationship between properties 103 and 103A. Although the applicants address is No. 103, the red line as submitted also encompasses 103 A. There is no clear boundary definition between the two dwellings. The potential for onward sale of one or other dwelling as a separate entity is limited in my view due to this layout and associated relationship. Potential concerns in terms of the impact on the amenities of No. 103 & 103A for example due to noise or general disturbance would therefore carry determining weight also.

TSM 7 provides general criteria for Tourism Development.

Given the concerns in relation to the safe access, movement and servicing on the proposed development this application would be contrary to criteria K, L and M with regards to road safety. The proposal is also contrary to criteria b and c in that the layout is not sufficiently designed and landscaped to ensure a high quality tourist amenity. Also given the previous comments above the proposal would also be contrary to criteria g and h in that it is not compatible with the surrounding land uses and would have a detrimental impact on the amenity of neighbouring properties.

Although considered acceptable in principle under the SPPS and TSM 1, the proposal provides obvious concerns in terms of road safety. Given its nature and location, the proposal has also been assessed against PPS 16 Tourism. Similarly, it is the scale of the proposal in terms of the traffic it would generate, which presents the main policy constraint.

Refusal is therefore recommended.

### **Recommendation:**

*Refusal*

### **Refusal Reasons:**

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of (2.0 metres x 45 metres) cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.
2. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, in that it would, if permitted, prejudice the safety and convenience of road users since adequate provision cannot be made clear of the highway for the -
  1. parking
  2. turning
  3. loading and unloading- of vehicles which would be attracted to the site.
3. The proposal is also considered contrary to PPS 16 Tourism policy TSM 7 (Criteria for Tourism Development), criteria B, C, G, H K, L and M with regards to road safety, landscaping, layout and its impact on nearby residential amenity.

4. The proposal is contrary to The Strategic Planning Policy Statement, paragraph 4.11 and 4.12 in that the proposed Development will have a demonstrable impact on the residential amenity of the existing residents at 103 & 103A.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

SB/13

Mr. Liam Hannaway,  
 Chief Executive Newry, Mourne & Down District Council,  
 Newry, Mourne & Down District Council,  
 Monaghan Road,  
 Newry,  
 BT35 8DJ



21<sup>st</sup> September 2016

Dear Liam

I write to express our disappointment with the Council's decision on 16th August 2016 to approve Planning Application R/2015/0093/F (Proposed fitness facility and associated parking) at Invest NI's Down Business Park in Downpatrick.

The Council's Planning Committee agreed to issue an approval on the planning application, contrary to Councils officers' recommendations. Council officers engaged with Invest NI throughout the determination of the planning application and we issued a substantive consultation response in respect of the application. I attach the consultation response dated 18<sup>th</sup> December 2015 for your information.

This decision will result in the loss of land (approximately 0.55 hectares) zoned as 'existing industry' within the Ards and Down Area Plan 2015. We have significant concerns that the Committee's decision could create a precedent for similar planning applications and planning decisions occurring in the Council area. It could also potentially undermine the protection of industrial lands throughout the Council area such as at our Carnbane Business Park in Newry.

You will be aware that we have a long established position of opposition to the loss of property (land or buildings) either currently or last used for industry to non-industrial uses, namely those falling outside Part B of the Planning (Use Classes) Order (Northern Ireland) 2015.

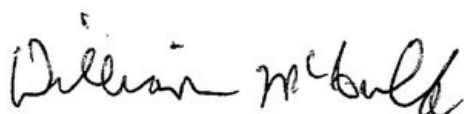


Our stance has been predicated on a need to protect such property to ensure an availability of suitable sites across Northern Ireland to facilitate economic growth. We are also particularly mindful that industrial estates by the very nature of the business activities taking place thereon make them inherently dangerous places for those unfamiliar with that environment.

I note from the minutes of the meeting that Committee Members are of the opinion that a precedent existed in terms of the non-industrial use of land within the Park. I would be particularly keen to gain an understanding of the use(s) to which the Committee refer and would appreciate if you could arrange for this to be provided to me.

Should you wish to discuss any aspect of this correspondence further please contact either Sharon Keenan on 028906 98112 or Graham Cardwell on 028 90 698091.

Yours sincerely



William McCulla

Director

Corporate Finance and Property Solutions

Cc Anthony McKay, Chief Planning Officer

Andrew Hay, Principal Planning Officer



## Consultation response from Invest NI

<b>Planning Application Number</b>	R/2015/0093 F		
<b>Location</b>	21 Enterprise Avenue, Down Business Park, Belfast Road, Downpatrick		
<b>Date of Consultation</b>	18/12/2015	<b>Reconsultation: yes/no*</b>	
<b>Date of response</b>	29/01/16	<del>Interim*</del>	Substantive*

\* Strikethrough as appropriate

## Comments

Invest NI welcomes the opportunity to comment on this planning application.

It notes that the application site lies within the Invest NI owned Down Business Park and the applicant is seeking approval for a change of use away from industry.

A proposal of this nature would seem to be contrary to Planning Policy Statement 4 PED 7 and clause 6.89 of the Strategic Planning Policy Statement (SPPS) which seek to retain zoned land and economic development uses.

Invest NI's recorded opinion is that that, due to the movement of large & heavy vehicles, industrial estates are not a benign environment and due care must be taken by all those within their boundaries. Accordingly, it would suggest that this proposal also appears to be at odds with clauses 6.90 & 6.91 of the SPPS.

By way of background information the application site was sold by Invest NI in support of industrial development within the Downpatrick area. The agency retains freehold ownership of the site under the terms of the 999 year lease which remains in place.

Invest NI is generally opposed to the loss of property such as that specified within the application to alternative uses namely those falling outside Part B of the Planning (Use Classes) Order (Northern Ireland) 2015 .

A use such as that which is proposed may also run contrary to the terms of the lease with governs future uses with the business park.

In summary Invest NI retains freehold ownership of the application site which is located within one of its business parks. The organisation is generally opposed to the loss of industrial property to non-industrial uses. The proposal may also run contrary to the terms of the Invest NI lease.

**Issued on behalf of Invest Northern Ireland**

## Newry, Mourne & Down District Council – September 2016

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### 1. Live Applications

MONTH 2016	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April	138	1,389	436
May	121	1,335	455
June	162	1,178	418
July	106	1,147	425
August	131	1,089	405
September	133	1,048	394

### 2. Live Applications by length of time in system

Month 2016	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April	583	370	222	66	148	<b>1,389</b>
May	549	331	222	86	147	<b>1,335</b>
June	511	249	195	77	146	<b>1,178</b>
July	501	221	196	78	151	<b>1,147</b>
August	480	204	162	99	144	<b>1,089</b>
September	472	182	150	97	147	<b>1,048</b>

## Newry, Mourne & Down District Council – September 2016

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### 3. Live applications per Case Officer

Month 2016	Average number of Applications per Case Officer
April	58
May	56
June	47
July	46
August	44
September	40

### 4. Decisions issued per month

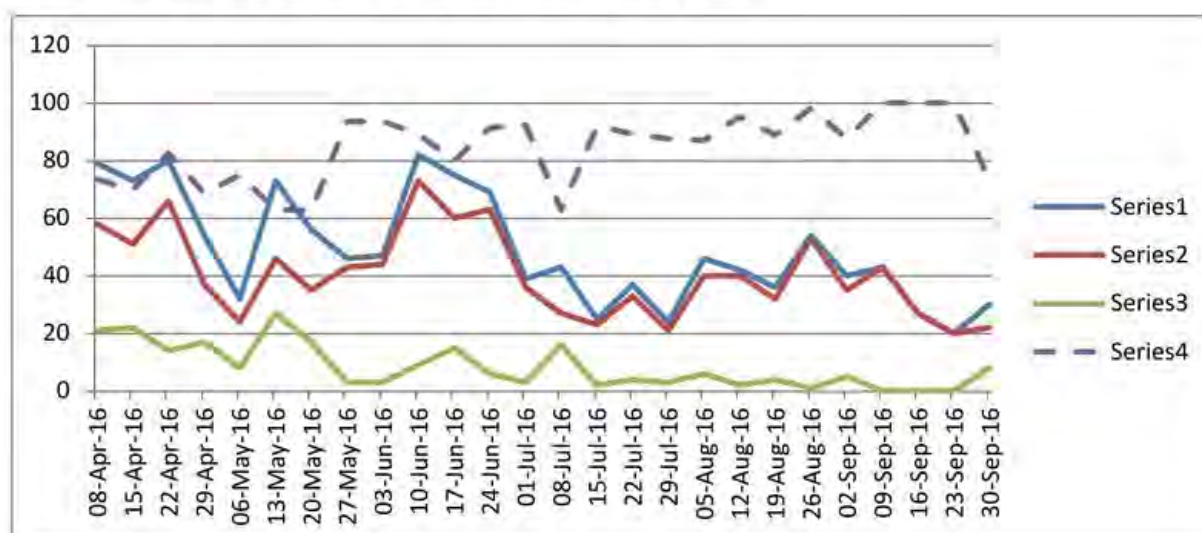
Month 2016	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	168	163
May	174	169
June	298	273
July	141	114
August	180	162
September	160	140

## Newry, Mourne & Down District Council – September 2016

### 5. Decisions Issued YTD

Month 2016	Number of Decisions Issued	Average processing Time	Breakdown of Decisions	
April	168	35.52 weeks	Approvals (156)	93%
			Refusals (12)	7%
May	342	33 weeks	Approvals (324)	95%
			Refusals (18)	5%
June	640	34 weeks	Approvals (587)	92%
			Refusals (53)	8%
July	781	33.4 weeks	Approvals (702)	90%
			Refusals (79)	10%
August	961	37.67	Approvals (872)	91%
			Refusals (89)	9%
September	1,121	37.67	Approvals (1018)	91%
			Refusals (103)	9%

DECISIONS ISSUED FROM 1 April 2016 to 31 August 2016



## Newry, Mourne & Down District Council – September 2016

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### 6. Enforcement

#### Live cases

Month 2016	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+ yrs	Total
April	185	119	97	56	23	78	558
May	190	113	101	58	24	77	563
June	217	119	104	56	27	79	602
July	220	117	94	64	28	77	600
August	231	125	87	72	32	75	622
September	240	129	86	83	35	77	650

### 7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting
13 April 2016	14	11	3
27 April 2016	10	5	5
11 May 2016	15	13	2
26 May 2016	17	12	5
8 June 2016	13	9	4
29 June 2016	35	25	10
6 July 2016	22	9	13*
3 August 2016	27	14	13
10 August 2016	4	2	2
31 August 2016	12	10	2
28 Sept & 5 Oct 2016	59	31	28
<b>Totals</b>	<b>228</b>	<b>141</b>	<b>87</b>

\*2 Applications called in by DfI

## Newry, Mourne & Down District Council – September 2016

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### 8. Appeals

Area	Number of current appeals
Newry & Mourne	16
Down	5
<b>TOTAL</b>	<b>21</b>

### 9. Statutory Targets Performance Data

Statutory targets monthly update to April to September 2016  
(unvalidated management information)  
Newry, Mourne and  
Down

	Major applications (target of 30 weeks)			Local applications (target of 15 weeks)			Cases concluded (target of 39 weeks)		
	Number decided / withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 30 weeks	Number decided / withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 15 weeks	Number brought to conclusion <sup>3</sup>	"70%" conclusion time <sup>3</sup>	% of cases concluded within 39 weeks
April	3	42.6	33.3%	164	31.0	18.9%	13	37.2	69.2%
May	2	149.3	0.0%	168	25.5	23.8%	31	92.5	45.2%
June	4	68.9	0.0%	285	27.0	22.5%	2	0.0	0.0%
July	1	159.2	0.0%	133	22.4	36.8%	25	83.4	44.0%
August	3	90.0	0.0%	173	19.4	42.8%	-	0.0	0.0%
Sept	6	163.4	0.0%	158	19.5	42.4%	7	42.0	71.4%
Oct	-	0.0	0.0%	-	0.0	0.0%	-	0.0	0.0%
Nov	-	0.0	0.0%	-	0.0	0.0%	-	0.0	0.0%
Dec	-	0.0	0.0%	-	0.0	0.0%	-	0.0	0.0%
Jan	-	0.0	0.0%	-	0.0	0.0%	-	0.0	0.0%
Feb	-	0.0	0.0%	-	0.0	0.0%	-	0.0	0.0%
Mar	-	0.0	0.0%	-	0.0	0.0%	-	0.0	0.0%
<b>Year to date</b>	<b>19</b>	<b>121.4</b>	<b>5.3%</b>	<b>1,086</b>	<b>25.0</b>	<b>30.0%</b>	<b>79</b>	<b>65.6</b>	<b>50.6%</b>

Source: NI Planning Portal

#### Note

1. CLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures

2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn. The median is used for the average processing time as any extreme values have the potential to inflate the mean, leading to a result that may not be considered as "typical".

3. The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence; a planning application is received; or a case is closed. The value at 70% is determined by sorting data from its lowest to highest values and then taking the data point at the 70th percentile of the sequence.



## Newry, Mourne & Down District Council – September 2016

## Record of meetings between Planning Officers and Public Representatives

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DATE OF MEETING	PLANNING OFFICER'S NAME/S	PUBLIC REPRESENTATIVE'S NAME
8/01/2016	A McKay, P Rooney, D Watson	Seán Rogers MLA, Cllr Willie Clarke, Cllr Mark Murnin
12/01/2016	P Rooney, M Keane	Cllr Stephen Burns
14/01/16	A McKay	Margaret Ritchie MLA
20/01/2016	P Rooney	Cllr Cadogan Enright
25/01/2016	D Watson	Margaret Ritchie MLA
27/01/16	M Keane	Seán Rogers MLA
17/02/16	Jacqui McParland	Declan McAteer
19/02/16	Jacqui McParland	Jarlath Tinnelly
22/02/16	Jacqui McParland	Michael Ruane
22/02/16	Jacqui McParland	Gillian Fitzpatrick
24/02/16	David Watson	Seán Rogers MLA
25/02/16	Andrew Hay, James King	Seán Rogers MLA
25/02/2016	Annette McAlarney	Seán Rogers MLA
25/02/16	Anthony McKay	Margaret Ritchie MLA
26/02/16	M Keane	Cllr McGrath
15/03/16	J McParland	Cllr M Ruane
16/03/2016	J McParland	Sean Rogers
25/03/16	A Davidson	Cllr Taylor
30/03/16	J McParland	Seán Rogers MLA
5/4/16	A McKay	Seán Rogers MLA
8/4/16	A McKay	Margaret Ritchie MLA
12/04/2016	Annette McAlarney	Cllr Curran
14/04/2016	J McParland	Cllr Declan McAteer
25/04/2016	J McParland	Cllr Tinnelly
27/04/2016	J McParland	Cllr Tinnelly
28/04/2016	Annette McAlarney	Cllr Burgess
29/04/2016	Annette McAlarney	Cllr McGrath
18/05/2016	Annette McAlarney	Cllr Curran
23/05/2016	A McKay	Cllr Ó Gribín
10/6/16	P Rooney & J McParland	Carla Lockhart MLA
14/06/2016	J McParland	Cllr Quinn
14/06/2016	J McParland A McKay P Rooney	Cllr Tinnelly
15/6/16	P Rooney	Cllr G Fitzpatrick
15/06/2016	P Rooney A McKay	Harold McKee MLA, J Tinnelly & G Fitzpatrick
16/06/2016	J McParland	Cllr Quinn
20/06/2016	Clare Miskelly	Cllr Dermot Curran
21/06/2016	J McParland	Cllr Taylor
21/06/2016	J McParland	Cllr Hanna
27/06/2016	J McParland	Cllr Tinnelly

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 July – 30 September 2016

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DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
28/6/16	Cllr Walker	LA07/2016/0182/F	Meeting request with new Agent	A Hay	Direct e mail	30/6/16
30/6/16	Cllr Liz Kimmins	LA07/2016/0165/F	Update	Pat Rooney	Direct e mail	8/7/16
1/7/16	M Ritchie MP	LA07/2016/0735/F	Ensure application is progressed quickly.	M Keane	Direct e mail	1/7/16
4/7/16	Cllr P Clarke	LA07/2015/0361/F	Update	M Keane	Direct e mail	4/7/16
16/6/16	Cllr W Walker	LA07/2015/0406/F & LA07/2015/0399/F	Update on applications and register objections	A McAlarney	Direct e mail	5/7/16
" "	Cllr P Brown	LA07/2015/1024/O	Update	A McAlarney	Call transferred	5/7/16
6/7/16	William Irvine MLA	LA07/2016/0150/O	Update	Jacqui McParland	email	-----
" "	Cllr Patrick Clarke	LA07/2016/0039/O	Update	A McAlarney	Call transferred	6/7/16
6/7/16	Cllr G Sharvin	R/2012/0208	Update on enforcement case	A McAlarney	Direct e mail	25/7/16
7/7/16	Cllr Roisin Mulgrew	LA07/2015/0150	Update	J McParland	E mail	8/7/16
8/7/16	Cllr Roisin Mulgrew	LA07/2015/0150	Update	J McParland	Call transferred	8/7/16
" "	Cllr Gareth Craig	-----	37 Old Road, Dundrum	A McAlarney	E mail	8/7/16
11/7/16	Cllr Dermot Curran	R/2011/0632/F	Update	P Rooney	E Mail	14/7/16
14/7/16	Cllr Roisin Mulgrew	LA07/2015/0738/F	Update	P Rooney	E Mail	20/7/16
" "	Cllr Terry Hearty	-----	Progress with application	C O'Rourke- P Rooney	Direct e mail	14/7/16
15/7/16	Cllr Terry Hearty	P/2010/0904	Update	P Rooney/J McParland	E mail	15/7/16
" "	Cllr Liz Kimmins	LA07/2015/0713/F	Has application been approved?	P Rooney	Direct e mail	15/7/16
18/7/16	Councillor Curran	-----	-----	A McAlarney	Call transferred	18/7/16
" "	Cllr Liz Kimmins	LA07/2015/1317/O	-----	P Rooney	Call transferred	18/7/16
19/7/16	Colin McGrath MLA	R/2014/0476/F	Application number and update	M McIlhone	Telephone call	19/7/16
" "	Cllr Patrick Clarke	R/2014/0166/CA	Update	C Miskelly	Call transferred	19/7/16
" "	Cllr Colin McGraths Office	-----	E mail for Planning Enforcement	M McIlhone	Telephone call	19/7/16
20/7/16	Cllr Dermot Curran	LA07/2016/0762/O	Update	A McAlarney	Call transferred	20/7/16
" "	Cllr Gareth Wilson		Quays Shopping Centre	J McParland	Call transferred	20/7/16

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 July – 30 September 2016

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DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
" "	Cllr Liz Kimmins	LA07/2015/0589/F	Update requested	P Rooney	Direct e mail	21/7/16
20/7/16	Cllr S Burns	-----	Tony Steele, Shaguehill, Moneylane, Dundrum	A McAlarney	E mail	Answer phone message 08/07/16
21/7/16	Michael for Colin McGrath MLA	R/2014/0476/F	Update	M McQuiston	E mail	21/7/16
22/7/16	Cllr Barra Murray	LA07/2016/0813/RM	Update	P Rooney	E mail	25/7/16
" "	Austin Orr for Cllr Jim Wells	-----	Enforcement case re: Windmill Lane, Cranfield, Killeel	P Rooney	E mail	25/7/16
" "	Cllr Barra O'Muire	P/2013/0551/F	Meeting request	C O'Rourke-P Rooney	Direct e mail	25/7/16
27/7/16	Colin McGrath MLA	LA07/2015/0079/F	Remove application from Committee	A McKay	Direct e mail	27/7/16
" "	Cllr Patrick Brown	LA07/2015/0750/F	Update	A McAlarney	Call transferred	27/7/16
28/7/16	Cllr Patrick Clarke	Letrim GAC & Filling Station, Newcastle Rd/Newry St., Castlewellan	Updates	A McAlarney	E Mail	Phonecall 29/07/16
29/7/16	Cllr Terry Hearty	P/2010/0904/F	Request for meeting	P Rooney	Direct e mail	29/7/16
1/08/16	Colin McGrath MLA	-----	-----	A McAlarney	Call transferred	1/8/16
" "	Cllr D Curran	-----	-----	A McAlarney	Call transferred	1/8/16
" "	Cllr M Murnin	-----	Objection with Amended Plans	M McIlhone	Telephone call	1/8/16
" "	Cllr P Brown	P/2014/0896/D	2 <sup>nd</sup> call – never got an answer to first?	P Rooney	E Mail	2/8/16
" "	Cllr C McGrath	Froth Coffee Shop	Withdrawn from Planning Committee meeting 3/8/16	A McKay	Direct e mail	2/8/16

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 July – 30 September 2016

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DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
2/8/16	M Ritchie's Office	LA07/2015/1365/F	Is this application for Planning Committee meeting 3/8/16?	M McIlhone	Telephone call	2/8/16
" "	ClIr W Walker	LA07/2016/0754/F	Update	A McAlarney	Direct e mail	2/8/16
" "	ClIr P Byrne	LA07/2015/0095/F	Update	A Davidson	E Mail	2/8/16
" "	ClIr Danny Kennedy			J McParland	E Mail	-----
3/8/16	William Irwin MLA Office	P/2013/0234/F	Who is Case Officer?	M McIlhone	Telephone call	3/8/16
" "	ClIr M Murnin	LA07/2015/0979/F	Progress of application	A Hay	At Committee	5/8/16
4/8/16	Wm Irwin MLA	P/2013/0234/F	Wind Turbine update	P Rooney	E mail	8/8/16
" "	ClIr P Byrne	LA07/2015/0095/F	Update	A McKay	E Mail	4/8/16
" "	Colin McGrath's Office	----- ---	To arrange a meeting	A Hay	Call transferred	4/8/16
" "	M Ritchie MP	Pre App Discussion	60 Drumaroad Hill, Castlewellan	A McAlarney	E mail from C O'Rourke	anthony
5/8/16	ClIr Danny Kennedy			J McParland A Davidson	E Mail	-----
5/8/16	ClIr Mulgrew	Update on 2 applications		J McParland A Davidson	E Mail	-----
8/8/16	Wm Irwin MLA	P/2013/0234/F	Update	Andrew Davidson	E mail	8/8/16
" "	M Ritchie MP	R/2014/0575	Was application approved?	Mark Keane	E Mail	8/8/16
" "	ClIr Patrick Clarke	LA07/2016/0988/F	Update	Mark Keane	Call transferred	8/8/16
" "	ClIr Roisin Mulgrew	LA07/2016/0812/F	Update	Pat Rooney	Call transferred	8/8/16
" "	Wm Irwin MLA	P/2013/0234/F	Update	Andrew Davidson	E mail	8/8/16
" "	M Ritchie MP	R/2014/0442/O	Update on deferral	A McAlarney	Direct e mail	15/8/16
" "	ClIr H Harvey	LA07/2016/0754/F	Update	A McAlarney	L Dillon – A McAlarney	15/8/16
10/08/16	Wm Irwin MLA		Update	J McParland Laura Duffy	E Mail	-----
" "	Colin McGrath MLA		Annette off. Colin to ring Mon	Annette		10/08/16

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 July – 30 September 2016

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DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
			15 <sup>th</sup> Aug			
11/08/16	Danny Kennedy MLA	-		J McParland Pat Rooney	E Mail	
11/08/16	Cllr P Clarke			Annette/Ciara	E Mail	
" "	Cllr Byrne			A Davidson	" "	11/8/16
11/08/16	Mgt Ritchie's office		Re Meeting with A McKay at 3pm	Spoke with Anthony. I called back to confirm meeting in Dpk	Suzanne	11/08/2016
" "	Cllr P Byrne	LA07/2015/0095/F	Update	Pat Rooney	E mail	11/08/16
12/08/16	Cllr Brian Quinn			Pat Rooney	Call transferred	12/8/16
" "	Cllr P Brown	Glassdrumman Hotel	Update	P Rooney	Direct e mail	1/9/16
15/08/16	Cllr Roisin Mulgrew		Returning call	A Davidson	E mail	
" "	Cllr P Brown	Area Plan	Wished to discuss zoning	C O'Rourke – A Hay	E mail	15/8/16
" "	M Ritchie MP	LA07/2016/0874/F	Current position?	A McAlarney	Direct e mail	16/8/16
" "	Cllr C Casey	Various applications	Updates	P Rooney	E mail from Newry Admin	16/8/16
" "	Cllr W Clarke	R/2014/0449 & Middle Tollymore Road	Update and meeting request	A McAlarney	Direct e mail	17/8/16
16/8/16	Cllr P Clarke	LA07/2016/0583/F & Q/2014/0398/O	Updates	A McAlarney		16/8/16
" "	Cllr R Mulgrew	Various Applications	Andrew dealing with apps. so Roisin will e mail him directly	A Davidson	Telephone call	16/8/16
" "	Cllr W Clarke	Petrol Station, Newcastle Rd &	Update requested	A McAlarney	Direct e mail	17/8/16

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 July – 30 September 2016

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DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
17/8/16	William Irwin MLAs office	Mary St., Castlewellan -----	Wished to speak to J McParland.	M McIlhone	Telephone call	17/8/16
" "	M Ritchie MP	LA07/2016/0874/F	Update	A McAlarney	Direct e mail	18/8/16
" "	Cllr P Clarke	LA07/2015/1376/F	Update	A McAlarney	Direct e mail	18/8/16
" "	Cllr G Hanna	181 Dundrum Rd, Newcastle	Urgent enforcement issue re Land fill	A McKay	Direct e mail	22/8/16
18/8/16	Cllr W Clarke	R/2014/0449	Remove application from next planning meeting	A McAlarney	Direct e mail	18/8/16
" "	Clr G Wilson			J McParland	E-mailed	
" "	C McGrath MLA	Froth Coffee Shop	Ste meeting request	A McKay	Direct e mail	18/8/16
19/8/16	Cllr P Clarke	LA07/2015/0842/O	Current status of Decision?	A McAlarney	Direct e mail	19/8/16
" "	Cllr P Clarke	LA07/2015/0361/F	Current status of application?	A McAlarney	Direct e mail	19/8/16
" "	M Ritchie MP	R/2015/0153/O	Update	A McAlarney	Direct e mail	19/8/16
23/8/16	Colin McGrath MLA	LA07/2015/1088/F	Meeting	A McAlarney	Direct e mail	23/8/16 & 26/8/16
" "	Harold McKee	-----	-----		Emailed Jacqui/Andrew	23/08/2016
25/8/16	Cllr R Mulgrew	LA07/2016/0655; LA07/2016/1081	Also re yesterday's meeting and a general enquiry	A Davidson/P Rooney	E mail	-----
26/8/16	Cllr W Clarke	-----	Requested Pad for Castlewellan Road, Newcastle	A McAlarney	Direct e mail	26/8/16
" "	Cllr W Clarke	-----	Meeting re app. Middle Tollymore Road, Newcastle	A McAlarney	Direct e mail	26/8/16
" "	Cllr Dermot Curran	-----	-----	A McAlarney	Transferred call	26/08/16
30/8/16	Cllr Sean Doran	P/2014/0934/F	Update	J McParland/P Rooney	E Mail	30/8/16
" "	Cllr P Clarke	LA07/2015/0842/O	When will Decision Notice issue?	A McAlarney	Direct e mail	7/9/16

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 July – 30 September 2016

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DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
30/8/16	Cllr W Walker	R/2015/0126/F	Update	M Keane	Direct e mail	31/8/16
" "	Cllr S Doran	P/2014/0934/F	Follow up e mail to enquiry earlier today	P Rooney	Direct e mail	1/9/16
" "	Cllr G Fitzpatrick	LA07/2015/0413/O; Lao7/2015/0203/F; La07/2015/0409/RM & LA07/2015/0732/F	Updates requested	P Rooney	Direct e mail	12/9/16
31/8/16	Cllr W Walker	Solar Panels App	Finnebrogue, Downpatrick	A Hay	Direct e mail	1/9/16
" "	Cllr G Fitzpatrick	LA07/2016/0956/F	Request to prioritise application	P Rooney	Direct e mail	1/9/16
1/9/16	Cllr G Craig	LA07/2015/1088/F	Update	A McAlarney	Call transferred	1/9/16
" "	Cllr D Taylor	LA07/2015/1360/F	Update	P Rooney	Call transferred	1/9/16
" "	Cllr G Wilson	LA07/2016/0307/O	Update	P Rooney	Call transferred	1/9/16
" "	Elizabeth for J McNulty MLA	P/2013/0242/F	Update	P Rooney	E mail	1/9/16
" "	Cllr M Ruane	LA07/2016/0396	Update	P Rooney	Direct e mail	1/9/16
" "	M Ritchie MLA	-----	Revocation - McEvoy	A McAlarney	Direct e mail	2/9/16
2/9/16	Cllr D Taylor	Heingericke Building, Belfast Rd, Newry	Request to discuss	P Rooney	Hand written note left on desk	2/9/16
2/9/16	Cllr G Fitzpatrick	General	Update	P Rooney	Hand written note left on desk	2/9/16
" "	Cllr P Clarke	-----	Emergency works at 119-121 Main Street, Dundrum	A McAlarney	Direct e mail	2/9/16
6/9/16	Cllr T Hearty	-----	Request for meeting	P Rooney	Direct e mail	6/9/16
" "	Cllr Gillian Fitzpatrick	LA07/2016/0432/F; LA07/2016/0473/F; & LA07/2015/0732/F	Updates requested	P Rooney	Direct e mail	8/9/16
7/9/16	Cllr H McKee	General Enquiry	-----	P Rooney	E mail	7/9/16
" "	Cllr R Mulgrew	LA07/2015/0473/F	-----	A Davidson	E mail	9/9/16
" "	Cllr T Hearty	-----	Request for meeting	P Rooney	Direct e mail	7/9/16
" "	Elizabeth for J	P/2013/0242/F	Update	P Rooney	E mail	7/9/16



## CONTACT FROM PUBLIC REPRESENTATIVES – 1 July – 30 September 2016

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DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
	McNulty MLA					
8/9/16	Elizabeth for J McNulty MLA	P/2013/0242/F	Update	P Rooney	E mail	7/9/16
" "	Clr R Mulgrew	LA07/2015/0473/F	-----	A Davidson	E mail	9/9/16
8/9/16	M Ritchie MP	R/2002/0971/F	Enquiry re Conditions	A McAlarney	Direct e mail	9/9/16
9/9/16	Sinead Bradley MLA	P/2005/2523; P/2014/0394 & P/2014/0972.	Updates requested	Pat Rooney	Telephone call	9/9/16
" "	M Ritchie MP	LA07/2015/1224/F	When will app. Go to Council?	A McAlarney	Direct e mail	12/9/16
" "	Clr S Bradley	P/2014/0972/O; P/2014/0394/O & P/2005/2523	Updates requested	P Rooney	Direct e mail	16/9/16
12/9/16	Clr David Taylor	LA07/2015/1181/F	Update	P Rooney	Telephone call	12/9/16
12/9/16	Sean Doran	-----	-----	Jacqui,Anthony, + Andrew	E Mailed	12/9/16
13/9/16	Clr G Fitzpatrick	LA07/2016/0473/F	Request for meeting	P Rooney	Direct e mail	-----
" "	Wm Erwin MLA	-----	Re: rescheduling meeting tomorrow	A McKay	E mail	13/9/16
" "	Clr S Doran	LA07/2015/0239/O	Request to defer decision until information received	P Rooney	Direct e mail	16/9/16
14/9/16	Clr P Brown	-----	-----	A Hay	Call transferred	14/9/2016
15/9/16	Clr Patrick Brown	-----	Poultry Farms	James King	E Mail	15/9/16
16/9/16	Clr M Ruane	-----	-----	P Rooney	Direct e mail	16/9/16
19/9/16	Clr G Fitzpatrick	Tyre place on Chapel Hill Mayobridge	Can existing sheds be replaced with new ones?	P Rooney	Direct e mail	19/9/16
" "	M Ritchie MP	LA07/2016/1166/F	Update	M Keane	Direct e mail	19/9/16
" "	M Ritchie MP	LA07/2015/0866/F	Update	A McAlarney	Direct e mail	26/9/16
21/9/16	Clr S Doran	P/2014/0872/F	Update	P Rooney	E mail	21/9/16
22/9/16	Clr G Fitzpatrick	LA07/2015/0732/F	When will app be re-advertised?	P Rooney	Direct e mail	22/9/16

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 July – 30 September 2016

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DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
" "	M Ritchie MP	LA07/2015/0788/F	Update	M Keane	Direct e mail	23/9/16
23/9/16	M Ritchie MP	LA07/2016/0804	Add information provided	F Murray	Direct e mail	23/9/16
" "	M Ritchie MP	LA07/2016/0317/F- LA07/2016/0699/F	Update	M Keane	Direct e mail	23/9/16
26/9/2016	Cllr S Doran	LA07/2015/1380/F & LA07/2016/0069/O	Requests call back	P Rooney (Jacqui off)	Direct e mail	26/09/2016
" "	M Ritchie MP	LA07/2016/0874/F	Update	A McAlarney	Direct e mail	26/9/16
" "	M Ritchie MP	-----	Planning query from Brendan Sloan, 46 Killowen Rd, Rostrevor	C O'Rourke – A McKay	E mail	-----
27/9/16	M Ritchie MP	LA07/2015/0989/F	Update	A McAlarney	T/C & Direct E mail	27/9/16
" "	M Ritchie MP	LA07/2015/0989/F	Has all information been received?	A McAlarney	Direct e mail	28/9/16
28/9/16	Cllr S Bradley	P/2014/0394/O & P/2005/2523	Has Case Officer returned from leave?	P Rooney	Direct e mail	29/9/16
29/9/16	Cllr G Fitzpatrick	LA07/2016/0473/F	Request for meeting	P Rooney	Direct e mail	29/9/16

## Record of meetings between Planning Officers and Public Representatives

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30/06/2016	A McKay	Margaret Ritchie MP
4/07/2016	Andrew Hay	Jim Shannon MP
08/07/2016	J McParland	Cllr Quinn Cllr Doran
14/07/2016	P Rooney	Cllr W Clarke
21/07/2016	Anthony McKay	Margaret Ritchie MP
26/7/2016	J McParland	Sean Doran
27/07/2016	J McParland	J Tinnelly
08/08/2016	J McParland	J Tinnelly
8/08/16	A Hay M Keane	Colin McGrath MLA
11/08/16	Andrew Hay	Cllr Walker Cllr Curran
25/08/16	Anthony McKay	Cllr O'Gribin
30/08/16	Pat Rooney	Cllr Ruane
1 /9/16	Anthony McKay	M Ritchie MLA
02/09/2016	A McAlarney Mark Keane	Cllr Willie Clarke
02/09/2016	A McAlarney	Cllr Willie Clarke
06/09/2016	Pat Rooney/Andrew Davidson	Cllr Terry Hearty
08/09/2016	Annette McAlarney Catherine Moane	Colin McGrath MLA
08/09/2016	Pat Rooney	Cllr David Taylor MLA and Danny Kennedy MLA
14/9/16	Pat Rooney	Cllr Terry Hearty
14/9/16	Anthony McKay	Wm Erwin MLA
15/09/2016	Pat Rooney	Cllr Terry Hearty
23/09/2016	Pat Rooney/Andrew Davidson	Harold McKee MLA, David Taylor MLA
29/09/2016	Pat Rooney	Cllr Terry Hearty
11/10/16	Andrew Davidson	Cllr Tinnelly
14/10/16	Pat Rooney & Andrew Davidson	Justin McNulty MLA



### Current Appeals

**ITEM NO** 3  
**Planning Ref:** P/2014/0853/F **PAC Ref:** 2016/A0041  
**APPELLANT** S Meade  
**LOCATION** To The Immediate North And East Of 16 Rostrevor Road Hilltown.  
**PROPOSAL** Retention of two light industrial units, erection of three light industrial units.

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** Informal Hearing **Date Appeal Lodged** 01/07/2016  
**Date of Hearing** 16/09/2016  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

**ITEM NO** 4  
**Planning Ref:** P/2015/0103/F **PAC Ref:** 2016/A0048  
**APPELLANT** Mr Joe O'Hare  
**LOCATION** Between 47 And 47a Ballintemple Road Ballintemple Newry  
**PROPOSAL** Retention of existing agricultural building and access

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** Written Reps with Site Visit **Date Appeal Lodged** 31/05/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

## Current Appeals

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<b>ITEM NO</b>	5	<b>PAC Ref:</b>	2016/A0058
<b>Planning Ref:</b>	P/2015/0121/O		
<b>APPELLANT LOCATION</b>	Mr O Slane Land 30m North West Of 1 Tullyet Road Newtownhamilton		
<b>PROPOSAL</b>	Proposed site for infill dwelling and detached garage.		

<b>APPEAL TYPE</b>	Plg Refusal: permissions	<b>Date Appeal Lodged</b>	17/06/2016
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>		
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

<b>ITEM NO</b>	6	<b>PAC Ref:</b>	2016/A0063
<b>Planning Ref:</b>	P/2015/0210/F		
<b>APPELLANT LOCATION</b>	Mr Brendan McNamee Immediately North East And Opposite No.62 Carran Rd Crossmanlen		
<b>PROPOSAL</b>	Retention of metal fence, gates, granite piers and granite kerbs to front boundary of property		

<b>APPEAL TYPE</b>	Plg Refusal: permissions	<b>Date Appeal Lodged</b>	20/06/2016
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>		
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

## Current Appeals

359

<b>ITEM NO</b>	<b>7</b>		
<b>Planning Ref:</b>	LA07/2015/0286/C	<b>PAC Ref:</b>	2016/A0066
<b>APPELLANT LOCATION</b>	Ms Edel Rooney Site Approximately 20 Metres South West Of 10 Head Road Moyad		
<b>PROPOSAL</b>	Annalonn Site for dwelling with detached garage (gap site)		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	<b>24/06/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>8</b>		
<b>Planning Ref:</b>	LA07/2015/0292/C	<b>PAC Ref:</b>	2016/A0071
<b>APPELLANT LOCATION</b>	Mr Thomas W Meaney 40m North West Of 55 Magheralone Road Ballynahinch		
<b>PROPOSAL</b>	Proposed new infill dwelling and garage		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>28/06/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

360

<b>ITEM NO</b>	<b>9</b>		
<b>Planning Ref:</b>	P/2015/0236/F	<b>PAC Ref:</b>	2016/A0073
<b>APPELLANT LOCATION</b>	Mr Francis McGuinness Lands To The Rear Of No 41 Newtown Road Killeen		
<b>PROPOSAL</b>	<sup>Newrv</sup> Extension to existing dwelling curtilage and erection of domestic garage.		
<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>28/06/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>10</b>		
<b>Planning Ref:</b>	P/2015/0221/F	<b>PAC Ref:</b>	2016/A0074
<b>APPELLANT LOCATION</b>	Mr Francis McGuinness Adjacent And South Of No 41 Newtown Road Killeen		
<b>PROPOSAL</b>	<sup>Newrv</sup> Erection of Vehicle Maintenance Shed and retention of existing yard for the storage of vehicles.		
<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>28/06/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

361

<b>ITEM NO</b>	<b>11</b>		
<b>Planning Ref:</b>	P/2014/1049/O	<b>PAC Ref:</b>	2016/A0077
<b>APPELLANT LOCATION</b>	Tracy McKenzie Adjacent And N Of No.9A Corcreechy Road Newry BT34 1LR		

**PROPOSAL**                      Site for dwelling and garage (infill)

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>	<b>Date Appeal Lodged</b>	<b>30/06/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

<b>ITEM NO</b>	<b>12</b>		
<b>Planning Ref:</b>	LA07/2015/0342/C	<b>PAC Ref:</b>	2016/A0084
<b>APPELLANT LOCATION</b>	Patsy Malone Approximately 110 Metres North East Of 151 Ballydugan Road Downpatrick		

**PROPOSAL**                      Replacement dwelling

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>14/07/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

## Current Appeals

362

**ITEM NO** 13  
**Planning Ref:** LA07/2015/0542/F **PAC Ref:** 2016/A0094  
**APPELLANT** Mr R L Annett  
**LOCATION** 150 Metres Southwest Of No 20 Council Road  
 Kilkeel  
 RT34 ANP  
**PROPOSAL** Agricultural Building, yard and access from Council Road

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 09/08/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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**ITEM NO** 14  
**Planning Ref:** LA07/2016/0556/C **PAC Ref:** 2016/A0095  
**APPELLANT** J & J McKibbin  
**LOCATION** 40m Southeast Of 181 Moyad Road  
 Kilkeel  
 RT34 4H1  
**PROPOSAL** Site for dwelling and garage

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 10/08/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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## Current Appeals

363

<b>ITEM NO</b>	<b>15</b>		
<b>Planning Ref:</b>	LA07/2015/0455/F	<b>PAC Ref:</b>	2016/A0106
<b>APPELLANT</b>	Fergal O'Hanlon		
<b>LOCATION</b>	15 Kearney Crescent Whitecross		
<b>PROPOSAL</b>	<sup>Armagh</sup> Retention of part boundary walls piers and railings		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>22/08/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>16</b>		
<b>Planning Ref:</b>	LA07/2015/0921/C	<b>PAC Ref:</b>	2016/A0107
<b>APPELLANT</b>	Noel McLoughlin		
<b>LOCATION</b>	Adjacent And Immediately South Of No 5 Greenan Lough Road And Fronting Mullavat Road		
<b>PROPOSAL</b>	<sup>Newry</sup> Dwelling and domestic garage on gap site		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>24/08/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

364

**ITEM NO** 17  
**Planning Ref:** LA07/2015/1246/C **PAC Ref:** 2016/A0112  
**APPELLANT** Terence J O'Hare  
**LOCATION** 60m North West Of No 25 Church Rock Road  
 Carrickbracken  
 Camlough  
**PROPOSAL** Replacement dwelling and garage on farm land

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 31/08/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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**ITEM NO** 18  
**Planning Ref:** LA07/2015/0546/F **PAC Ref:** 2016/A0118  
**APPELLANT** Jane Magee  
**LOCATION** Approx 70m South East 71 Ardglass Road  
 Ballyhornan  
 Downpatrick  
**PROPOSAL** Retention of building with alterations to be used as farm shed and  
 animal handling facility in substitution for agricultural building granted  
 permission under R/2007/1021/F. (additional information)

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 13/09/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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### Current Appeals

**ITEM NO** 19  
**Planning Ref:** LA07/2015/1109/F **PAC Ref:** 2016/A0125  
**APPELLANT** Noel Mckinely  
**LOCATION** Adjacent To No.24 And Opposite Nos 19 And 20 Tudor Mews  
 Upper Dromore Road  
 Warrenpoint  
**PROPOSAL** Proposed 2 No. Apartments

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged**  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

**ITEM NO** 20  
**Planning Ref:** R/2014/0576/F **PAC Ref:** 2016/A0127  
**APPELLANT** Mr D Orr  
**LOCATION** West Of 109 Barnamaghery Road  
 Crossgar  
**PROPOSAL** Erection of wintering shed for livestock and retention of existing fodder  
 storage shed on part foundation of original shed on site.

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 22/09/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

**Current Appeals****366**

<b>ITEM NO</b>	<b>21</b>		
<b>Planning Ref:</b>	LA07/2015/0969/C	<b>PAC Ref:</b>	2016/A0129
<b>APPELLANT</b>	Liam McDonnell		
<b>LOCATION</b>	Approx 50m South East Of No 41a Aughnagun Road Derryleckagh Newry Co. Down		
<b>PROPOSAL</b>	Dwelling and Garage on infill site		
<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>28/09/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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**PAC Reference :** 2015/E0048  
**Departmental Reference :** P/2013/0186/CA  
**Development :** Garage not constructed in accordance with approved plan and the unauthorised construction of a roof terrace  
**Location :** 4 Orchard Close, Ringmackilroy, Warrenpoint  
**Appellant :** Mr Rodney McAteer  
**Appeal Type :** Enforcement Appeal  
**Commission Decision Issued :** 2016-09-07  
**Commission Decision :** Withdrawn

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# Appeal Decision

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<b>Appeal Reference:</b>	2015/A0178.
<b>Appeal by:</b>	Mr Shane Quinn.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Erection of domestic shed and associated hardstanding, access provision and site works with associated change of use of agricultural lands to domestic purposes (and access laneway immediately north of No. 56 Drumalt Road).
<b>Location:</b>	Adjacent and south west of No. 56 Drumalt Road, Dorsey, Cullyhanna.
<b>Planning Authority:</b>	Newry, Mourne & Down District Council.
<b>Application Reference:</b>	P/2014/0578/F.
<b>Procedure:</b>	Written Representations with Accompanied Site Visit on 28 April 2016.
<b>Decision by:</b>	Commissioner Mark Watson, dated 6 September 2016.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are:
  - the principle of development; and
  - the potential impacts of the development on visual amenity and rural character.
3. The Banbridge, Newry & Mourne Area Plan 2015 (BNMAP) operates as the statutory local development plan for the proposal. In it, the site lies within the countryside. The BNMAP offers no specific policy or guidance in respect of the proposed development and is not material. In regard to the appeal development there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland '*Planning for Sustainable Development*' and those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21). PPS21 policy provisions remain applicable to the proposed development.
4. The site comprises a portion of an agricultural field situated to the west of Drumalt Road. It sits to the rear of several residential properties that sit along the roadside. Access to the host field is derived from an existing laneway that lies adjacent and north of No. 56 Drumalt Road, a chalet bungalow that sits on an elevated site above the road. A layer of stones provides an area of hardstanding broadly consistent with the location of the proposed building. There was a vintage Massey Ferguson tractor on the site at the time of my visit. The site is undefined on the



- south-western and south-eastern sides. The northern boundary is defined by a mature hedge, with the north-eastern boundary defined by a steep bank with a line of mature conifers atop it that forms the rear of No. 56's curtilage. The site lies in a rural area with an undulating landform.
5. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. This includes an extension to a dwelling house where this is in accordance with the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (APPS7). It follows that if the development complies with the provisions of APPS7 it will comply with Policy CTY1 of PPS21.
  6. Policy EXT1 of APPS7 states that planning permission will be granted for a proposal to extend or alter a residential property where all of 4 criteria are met. EXT1 goes on to state that the guidance set out in Annex A will be taken into account when assessing proposals against the 4 criteria. The objections from the Council fell under criterion (a); that the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area.
  7. Annex A para A11 states that buildings within residential curtilage such as garages can often require as much care in siting and design as works to the existing residential property. Para A24 of APPS7, Annex A states that the impact of an extension or alteration on the visual amenity of the countryside, and in particular, AONBs, needs to be considered. It warns that through poor design the individual and cumulative effect of extensions and alterations which are disproportionate in size to the existing property or which require the use of land outside the established curtilage of the property, will result in a detrimental change to rural character.
  8. The Council's objections related to the design of the building, its location outwith the curtilage and the visual impact and detrimental change to rural character that it considered would arise from the development. Policy CTY13 of PPS21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Policy CTY14 of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of an area.
  9. The proposed shed design has half height concrete walls, with the upper walls and roof covered in sheet metal. There is a single large roller shutter door on the front façade, with a pedestrian access on the western gable. The lower walls are to be rendered grey and the sheet metal painted green. It measures approximately 15m long by 11.6m wide, with a ridge height of 7.5m. A new concrete laneway and yard is also proposed, with access to be taken from the existing laneway to the north of the host dwelling.
  10. The proposed shed is to be sited outwith the existing curtilage of the host property, a scenario generally not envisaged by the policy and guidance in APPS7. The design of the building is very typical of modern agricultural buildings and I note the

examples provided by the Appellant, some of which appear to serve as domestic outbuildings rather than for purely agricultural functions. Whilst the proposed materials do not correspond to the host dwelling, I do not find the design objectionable in this sense within its rural context. However, despite its lower position in the landform, the building would not, given its size and scale, be sympathetic to the existing dwelling at No. 56. I do not agree that the smaller footprint of the appeal building in relation to the host dwelling renders it sympathetic to No. 56, particularly given the overall bulk of the appeal building, including higher eaves line. The Council's objections in this regard are sustained to the extent specified.

11. The Council identified two critical views from which it considered the shed would be unacceptable. From the junction between Dorsey Road and Drumalt Road, there would be clear transient views of a sizable portion of the building, even though part of it would be sited behind the higher ground that No. 56 and its curtilage occupy. From this position the building would read as an extension to the group of buildings along the Drumalt Road, with development spreading down onto the lower, flat agricultural land between the buildings on Drumalt Road and Dorsey Road, which currently acts as a visual relief between these two groupings. Despite part of this visual gap remaining, the appeal development would still read as contributing to a visual consolidation of built development.
12. Views along the Dorsey Road travelling south would largely be restricted by intervening vegetation and existing development. They would not be critical. However, when travelling north along the Dorsey Road transient views of the building would be available, even if at an angle to the roadline. From these medium distance views the building would appear exposed in the landscape. Despite the partial backdrop afforded by the escarpment No. 56 sits upon, the more elevated vantage points from which the shed would be viewed render the site open and lacking proper enclosure to integrate the building, even with the proposed planting. I do not agree that the proposed siting represents a planning gain over a building situated within the curtilage, as even though the site may be at a lower level than the curtilage of the host dwelling, a building within the curtilage would be capable of reading as part of an integrated group of buildings and avail of the mature conifers to the rear of No. 56 for enclosure.
13. The Council also considered that the siting of the building would not respect the pattern of settlement in the area. Notwithstanding the proposed location outwith the existing curtilage and without prejudice to my conclusions on integration and rural character, the siting of the building relative to a group of existing buildings is not in itself at odds with the established pattern of settlement, nor is the plot size itself. In these respects I do not find the development objectionable. Whilst the appeal site is smaller than the site refused planning permission for a dwelling under appeal decision 2006/A0605, it nonetheless would contribute to a visual consolidation arising from a notable extension of an existing curtilage into an agricultural field, resulting in a suburban build-up of development.
14. The proposed development would detract from the appearance and character to the surrounding area, fail to integrate adequately into the landscape and erode rural character, matters which are interests of acknowledged importance. Whilst the locality has experienced a build-up of development and I note the examples given by the Appellant, it is not in the public interest to permit development that

would further erode the rural character of the area. The proposed development would fail to meet criterion (a) of EXT1 of APPS7 and given the critical nature of this deficiency, the policy read as a whole. It would also fail to meet Policies CTY13 and CTY14 of PPS21 read as a whole for the reasons given above. The second, third and fourth reasons for refusal are sustained to the extent specified.

15. The Appellant stated that he requires a shed of this size and design to house his vintage tractors and plant. He restores old vehicles as a hobby and has been a member of Kilkerry Vintage Club for over 2 years. He owns two tractors of various vintage, a link box and various other items, including a vintage manure spreader which was being stored at a friend's property. Whilst the Appellant wishes to continue his hobby and I note the letter of support from the Vintage Club, I am not persuaded that the appeal building is justified for the limited number of vehicles and equipment he currently owns, or for future expansion of his collection given the impacts it would have in terms of visual amenity and rural character. Nor, for reasons given below, am I persuaded that an alternative design could not be provided within the curtilage that would allow the Appellant to continue his hobby. The matter of providing security from theft was raised, which is unfortunately a common occurrence in the countryside. I am not persuaded that a shed situated to the rear and outwith the existing curtilage at a lower ground level, with direct views between it and No. 56 blocked by mature conifers would afford a more secure location than a suitably designed building within the curtilage, even if an alarmed gate was installed at the foot of the existing laneway.
16. Whilst I accept that the Appellant's existing curtilage is to a degree restricted by the septic tank location, I am not persuaded that the existence of a play area, which could potentially be relocated within the curtilage, would preclude the development of a building within the overall garden area, even if it were of different dimensions. It was stated that a shed could not be placed within the curtilage given the need to ensure the safety of the Appellant's children. However, access to the building could be restricted and children instructed on the potential hazards if entering the building supervised. I am not persuaded that these matters would justify the appeal development.
17. The Appellant considered that a fallback position existed in that he could erect a shed with a floorspace of 1200 sq m (half the area of the curtilage) with a 4m ridge height utilising permitted development rights. Whilst in theory such a development might be possible, it conflicts with the argument that there is no room within the existing curtilage for a shed, or the appeal building, a structure with a substantially smaller footprint than is suggested in the fallback scenario. Even if such a building were to be constructed, it would be located within the existing curtilage where it would read as part of an integrated group of buildings and avail of the benefit of the mature conifer vegetation. I do not consider this to be a realistic proposition and I am not persuaded that this is a viable fallback that would justify the appeal development.
18. The Appellant provided photos of other similar structures located within the locality. Whilst the design of the appeal building is not in itself objectionable, or out of character with the rural area, it is its location outwith the established curtilage and consequent impacts on visual amenity and rural character that give issue. I note that many of the examples either form part of an established group of farm

buildings or lie within the curtilage of their respective host dwelling. They would not justify the appeal development.

19. In the case of appeal decision 2014/A0121 Lurganahone Road, Rathfriland the proposed building was to be sited within the existing curtilage of the dwelling. Despite some design similarities, it is not comparable with the appeal proposal. In planning permission P/2011/0913/F at land to the rear of 3 Bankside, Rathfriland, that building also lay within the curtilage. The building in that case was visually contained and was judged acceptable in terms of rural character. It is not comparable to the appeal development, nor would it justify it.
20. As the development does not comply with the provisions of APPS7, it does not comply with Policy CTY1 of PPS21. The Council's reasons for refusal have been sustained to the extent specified and are determining. The appeal must fail.

This decision relates to drawing No. PL-01 Rev A entitled Site Location Map, Proposed Site Plan, Floor Plan & Elevations, submitted with the application.

**COMMISSIONER MARK WATSON**



**List of Appearances**

Planning Authority:- Mr G Murtagh (Newry, Mourne & Down District Council)  
Ms C McCoy (Newry, Mourne & Down District Council)

Appellant:- Mr S Hughes (ERES Limited)  
Mr S Quinn (Appellant)

**List of Documents**

Planning Authority:- 'A' Statement of Case & Appendices  
'B' Rebuttal Statement & Appendix

Appellant:- 'C' Statement of Case & Appendices (ERES Ltd)  
'D' Rebuttal Statement & Appendix (ERES Ltd)



# Appeal Decision

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<b>Appeal Reference:</b>	2016/A0011
<b>Appeal by:</b>	Carlingford Lough Pilots Limited.
<b>Appeal against:</b>	The conditional grant of full planning permission
<b>Proposed Development:</b>	Retention of existing office
<b>Location:</b>	Adjacent to 92 Greencastle Pier Road, Greencastle, Kilkeel
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	P/2015/0097/F
<b>Procedure:</b>	Written representations
<b>Decision by:</b>	Commissioner Pamela O'Donnell, dated 19 September 2016

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## Decision

1. The appeal is allowed and condition one is deleted from permission P/2015/0097/F.

## Reasoning

2. The main issue in the appeal is whether the conditional grant of planning permission on a temporary basis is necessary.
3. P/2015/0097/F granted planning permission for the retention of the existing office on 9 December 2015. This was subject to one condition which read "*The building hereby permitted shall be removed and the land restored to its former condition within two years of the date of this permission*". Since then, on 21 July 2016, the Council has issued a Certificate of Lawfulness (LDC) confirming that the subject office is lawful development (LA07/2016/0415/LDE).
4. The Council's appeal evidence to justify the time limited planning permission was submitted before the issue of the LDC. However, in light of the changed circumstances, the planning merits or otherwise of the condition are now irrelevant as the appeal development is lawful. In this context, the above condition is unnecessary.
5. Accordingly, the condition is deleted from planning permission P/2015/0097/F meaning that the retention of the office is no longer restricted to the temporary time period originally specified.

**COMMISSIONER PAMELA O'DONNELL**

2016/A0011

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**List of Documents**

Planning Authority:- "A" Statement of Case (Newry, Mourne & Down Council)  
"C" Rebuttal Statement

Appellant(s):- "B" Statement of Case (Michael Burroughs Associates)  
"D" Rebuttal Statement





# Appeal Decision

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<b>Appeal Reference:</b>	2016/A0010
<b>Appeal by:</b>	Mr Peter and Mrs Yvonne O'Hare
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Proposed general purpose agricultural shed and part retrospective access arrangements, foundation and hard standing area.
<b>Location:</b>	Adjacent to No 15 Blacks lane, Glasdrumman, Ballynahinch
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	R/2013/0347/F
<b>Procedure:</b>	Written representations and accompanied site visit on 25 August 2016.
<b>Decision by:</b>	Commissioner Boomer, dated 8 September 2016.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposed building is acceptable in principle in the countryside and the visual impact of that building, the area of hardstanding and the access arrangements.
3. The appeal site lies in the open countryside as designated in the Ards and Down Area Plan 2015. There is no specific policy in the plan that is material to this proposal. The Strategic Planning Policy Statement for Northern Ireland Planning for Sustainable Development (SPPS) was published on 28<sup>th</sup> September 2015 and is a material consideration. The relevant policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21), one of the policy documents retained by the SPPS.
4. Policy CTY 1 of PPS 21 identifies a range of types of development that are, in principle, considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is an agricultural or forestry shed in accordance with Policy CTY12.
5. Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural holding or forestry enterprise where it is demonstrated that it meets five criteria. The Local Planning Authority (LPA) considers that the appeal proposal conflicts with criterion (a) in that it has not been demonstrated that it is necessary for the efficient use of that agricultural or

forestry holding ..Paragraph 5.56 of CTY 12 states that for the purposes of that policy, the determining criteria for an active and established business will be that set out under Policy CTY 10. This requires that the farm business is currently active and has been established for at least six years but does not place a time restriction on forestry operations. Policy CTY 10 requires proof that the land has been actively farmed over the last six years.

6. The appellant states that he is operating both an active farm and forestry business within his holding. His agricultural holding on the northern side of Blacks Lane , originally incorporating an area of 1.85ha, has been considerably reduced to approximately 1.3ha due to the extension to the curtilage of the dwelling and the provision of a large area of hardstanding within the appeal site. Turning firstly to his agricultural business, the appellant acknowledged that his Business ID Number 658428 was not issued until 2013. Although Paragraph 5.38 states that the appellant is required to provide the farm's DARD Business ID number along with (my emphasis) other evidence to prove active farming over the required period (at least 6 years), the appellant argues that possession of a DARD number is not always necessary to be an active farmer but that he is only required to prove that he has maintained the land in good agricultural and environmental condition as set out in Paragraph 5.39. .
7. Criterion (a) of Policy CTY10 refers in the definitive article to the farm business and the policy is framed in such a way that it enables the appellant to apply for an agricultural building based on the activities of the person conducting and operating the farm business on which the appeal site is situated (my emphasis). This allows for approval to be granted where there is evidence that other family members or lease farmers have been issued with a Business ID number for the farm business for the requisite period rather than the appellant himself. As no evidence was submitted to show that any person other than the appellant had been farming this land and had a relevant Business ID number associated with this holding, this distinguishes the appeal proposal from Appeal 2009/A0297 referred to me.
8. The applicant submitted the following evidence to show that he has maintained the land in good agricultural and environmental condition:-
  - A letter from Port Horses stating that part of the holding was leased to them between 2006 and 2013 for the grazing of horses.
  - Whilst a letter from DARD states that the appellant was issued with a Flock Registration Number 658428 in September 2015, the appellant indicated his intention to keep sheep but confirmed that he has no stock at present.
  - A single receipt for hedge cutting on the holding between 2007 and 2013 was submitted along with two receipts for the replacement and renewal of stock fencing dated 2009 and 2013.
9. No up-to-date information has been provided for any maintenance works undertaken since 2013. Some round bales are currently being stored on the appeal site but no evidence was submitted to confirm that they were harvested from the holding itself. Whilst the appellant listed a long list of farm/forestry equipment owned, only a tractor, trailer and link box was evident during my site visit with the appellant indicating that he had stored these at his brother's farm in

Katesbridge. Policy requires assessment of current farming activities rather than future aspirations and the appellant currently has no stock and no evidence of crops being produced was submitted. The only evidence relating specifically to farming activity undertaken on behalf of the appellant relates to invoices for hedge cutting and fence repairs up to 2013. In this evidential context, it has not been demonstrated that the appellant has a farm business that is currently active and has been established for the last six years.

10. The appellant also argues that he has an established forestry business incorporating an area of Sitka spruce and oak/rowan woodland extending to 1.6ha. Planted by the previous owner in 1994 who received grant aid, a letter from a Woodland Management company confirmed that it is now at a stage of maturity. Whilst he states in his Statement of Case that he has been responsible for managing this afforested area for 10 years, he confirmed at the site visit that this has not required any maintenance by him during that period with the exception of weedkilling. However whilst he does anticipate that in the future it will require thinning and felling, no details of a future management plan for such works were submitted. In this evidential context I am not persuaded that this represents an active forestry holding.
11. Criterion (a) of Policy CTY12 requires that any building is necessary for the efficient use of the agricultural holding or forestry holding. The appellant seeks to erect a building with a footprint of 174 square metres, finished in green profiled metal sheeting to the roof and upper walls with plaster below. Rising to a height of 5.5m. it would have a large roller shutter door with a pedestrian access alongside. He considers that a building of this size is necessary for the storage of timber once trimming and maintenance of the woodland begins. He also considers that this building is required to store equipment such as crop sprayer, link box, quad, weed sprayers, chain saws, wood chippers as well as three vintage tractors. It is indicated that the building would also be needed to store crops especially hay bales, fertiliser and feed as well as provide shelter for sheep. There is insufficient evidence of either farming or forestry activity on this holding to justify the level of agricultural and forestry equipment building cited necessary by the appellant. He currently has no stock and the appellant has been operating with some equipment and bales stored in the yard with other equipment stored a considerable distance away. The three vintage tractors could be stored in the triple garage attached to the dwelling. Based on the appellant's current level of agricultural and forestry operations, I am not persuaded that the appeal building is necessary for the efficient use of the agricultural holding or forestry enterprise and find that it offends Criterion (a) of Policy CTY12.
12. Policy CTY12 also requires compliance with three further criteria where a new agricultural building is proposed. The first and third criterion require that there are no suitable existing buildings on the holding that can be used and that the proposal is sited beside existing farm or forestry buildings. Whilst the LPA refer to buildings on the appellant's former dwelling at Grove Road which is currently up for sale, this does not form part of the holding. The appellant's dwelling and attached garage at No 21 alongside represents the only building on the holding and in confirming this, the LPA's 3<sup>rd</sup> reason for refusal is not sustained. However in establishing this fact, it confirms that the appeal proposal fails to meet the requirement that it be sited alongside existing farm or forestry buildings. It has not therefore been demonstrated that the third criterion is complied with.

13. The appellant is correct in his assessment that ,under Part 8 of the Planning (General Permitted Development) Order (NI) 2015, the erection of a forestry building is permitted without any size restriction but only where it is reasonably necessary for those purposes and it is carried out on land used for the purposes of forestry. As the appeal site does not lie on land used for forestry purposes and I have concluded that it is not necessary for the efficient use of the forestry enterprise, the appeal building would not represent permitted development unlike that considered in Appeal 2010/LDC009.
14. I have concluded that the appeal proposal conflicts with Criterion (a) of Policy CTY12 as well as the third additional criterion listed. There is no evidence that the appeal proposal falls into any other types of development that are listed as acceptable in principle in the countryside under Policy CTY 1 or that there are overriding reasons why the development is essential and could not be located in a settlement. I therefore find that the LPA has sustained its first and second reasons for refusal.
15. The appeal site lies on the northern side of Blacks Lane, immediately adjacent to a large two storey dwelling and attached garage recently constructed at No. 21. Approved under R/2011/00381F, elements of that scheme have not been built in accordance with the approved plans but this is a matter for the LPA to address. However this appeal seeks to gain retrospective approval for the access arrangements. Whilst the entrance has been positioned as approved with the required sightlines in situ, a stone wall, pillars and electric gates have been installed behind those sightlines. As no details of these entrance features were submitted to or requested by the LPA as part of their assessment' they do not form part of the appeal proposal. The alternative configuration of that part of the driveway serving the appeal building does fall to be considered as well as the area of hardstanding already constructed. Whilst extensive excavations and alterations to the contours has been carried out to the land within the appeal site to provide the level platform on which the appeal building would sit, this does not form part of the appeal proposal. However, my assessment of the appeal building and its overall visual impact takes account of the changes made to the levels within the appeal site and the adjacent land.
16. The LPA consider that the proposed development would fail to integrate sympathetically with the surrounding countryside and that the impact of ancillary works would damage and further erode the rural character of the countryside, contrary to Policies CTY 13 and CTY 14. The appeal proposal involves the erection of a sizeable shed with a footprint of 174 square metres. Neither party has offered a detailed assessment of the potential visual impact of the appeal building, taking account of the extensive earth works already carried out. The appellant has resculpted the contours to provide the level area of hardstanding which is now bounded to the east by a graded bank 6m high and to the south by a wall of 3.6m in height excavated out of stone. Given its low lying position, I consider that the appeal building with a ridge height of 5.5m would have limited visual impact, screened by the rising contours which enclose it. When read from the gaps in the roadside hedge, only the top of the roof would be visible and then it would be read against the rising ground and mature trees further north. The LPA acknowledged that the visual impact of the area of hardstanding would be limited. The appellant has indicated that he intends to introduce a belt of mixed woodland along the southern boundary of the site which in time would provide

additional screening. Given its lowlying position enclosed by rising ground on three sides and limited visibility from any public aspect, I am satisfied that the building and area of hardstanding would achieve a satisfactory level of integration, blending into the landscape with an adequate backdrop provided.

17. Only that section of the main driveway and the extension to the west to serve the appeal building lies within the appeal site boundaries. Whilst the driveway as constructed has a more sweeping configuration than that approved, I do not consider that this in isolation results in a suburban feature or that it would have a greater visual impact overall. The additional section of driveway proposed to serve the appeal site falls away with the contours, abutting the existing hedgerow and therefore has minimal visual impact. Taking account of these limited ancillary works which lie within the appeal site and form part of the appeal and given their limited visibility, I am not persuaded that they would result in the erosion of the rural character of the countryside, to the detriment of this rural area. I therefore conclude that these elements do not offend Policies CTY 13 and CTY 14 and the fourth and fifth reasons for refusal are not therefore sustained.
18. The objectors raised concerns about the size and potential use of the appeal building. I have already addressed the issue of the visual impact of the building. Whilst they raise concerns that the shed and yard could be used for the storage of building materials, causing noise, disturbance and generating additional traffic. I am satisfied that their future use could be restricted by condition to the storage of materials and equipment associated only with the agricultural/ forestry operations which would not result in a significant increase in traffic. These objections are not therefore sustained.
19. As I have found the first and second reasons for refusal sustained, the appeal must fail.

This decision relates to the following drawings received by the LPA on 1 August 2013.

- Drawing 13-1419 O1P 1:2500 site location plan;
- Drawing 13-1419 O2P 1:500 existing and proposed site layouts; and
- Drawing 13-1419 O3P 1:100 Floor plans and elevations.

In addition to

Farm map for previous owner dated 26 June 2016 as well as farm map for appellant dated 16 July 2013 received by the Commission on 30 August 2016.

**COMMISSIONER PAULINE BOOMER**



**2016/A0010****List of Appearances**

Local Planning Authority:-	Ms Catherine Moane – Newry, Mourne & Down District Council
Appellant(s):-	Mr David Donaldson (agent) Mr O'Hare (appellant)

**List of Documents**

Local Planning Authority:-	LPA 1 Council's Statement of Case
	LPA 2 Rebuttal
	LPA 3 Appellants farm map received by the Commission on 30 August 2016
	LPA 4 Copy of letter from Tree Management Company to appellant – received by Commission on 30 August 2016.
Appellant:-	APP 1 Appellant's Statement of Case
	APP 2 Rebuttal
Objector	OBJ 1 Statement of Case from Mr & Mrs Love.