



April 11th, 2018

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 11th April 2018** at **10:00 am** in the **Boardroom, Monaghan Row.**

The Members of the Planning Committee are:-

Chair: Councillor G Craig

Vice Chair: Councillor K Loughran

| | | |
|-----------------|------------------------------|-----------------------------|
| Members: | Councillor C Casey | Councillor W Clarke |
| | Councillor L Devlin | Councillor G Hanna |
| | Councillor V Harte | Councillor M Larkin |
| | Councillor J Macauley | Councillor D McAteer |
| | Councillor M Murnin | Councillor M Ruane |

Agenda

1.0 Apologies.

2.0 Declarations of Interest.

3.0 Declarations in relation to paragraph 19 of Planning Operating Protocol - Members to be present for the entire item.

- Item 6 - LA07/2016/1092 - Fitzpatrick SSAS - **Councillor Clarke** was not present for the first presentation and **Councillors Devlin, Hanna and Loughran** were not at the site visit and cannot take part in the discussion/decision on this application.
- Item 7 - LA07/2017/1394/F - Mr and Mrs B Gibney - **Councillors Clarke, Devlin, Hanna and Loughran** were not present at the site visit and **Councillor Ruane** was not present for the first presentation and cannot take part in the discussion/decision on this application.
- Item 15 - R/2014/0499/RM - Dunmore Construction - **Councillors Clarke and Devlin** previously declared an interest and withdrew from the first presentation and cannot take part in the discussion/decision on this application.
- Item 29 - LA07/2015/0248/F - Sean Fitzpatrick - **Councillors Devlin and Hanna** previously declared an interest and withdrew from the first presentation and cannot take part in the discussion/decision on this application.

Minutes for Confirmation

4.0 Minutes of Planning Committee Meeting held on Wednesday 7 March 2018. (Attached).

 *Planning Minutes - 7 March 2018.pdf*

Page 1

For Discussion/Decision

5.0 Addendum list - planning applications with no requests for speaking rights/written submissions. (Attached).

 *Addendum list - 11-04-2018.pdf*

Page 12

Development Management - Planning Applications for determination

6.0 LA07/2016/1092/F - Fitzpatrick SSAS - A lateral extension in a predominantly westerly direction to the existing quarry, the construction of a screening landform, followed by the deepening of the enlarged quarry floor and the provision of a holistic restoration concept for the entire mineral development site - Lands to the north and west of and the existing Leode

Quarry, Leode Road, Hilltown, Newry, Co Down, BT34 5TJ The site is located approximately 2 miles west of Hilltown. (Case Officer report attached).

Rec: APPROVAL

- A request for speaking rights has been received from Mandy McClean, resident, objecting to the application. **(Submission attached).**
- A request for speaking rights has been received from DEA Councillor Gillian Fitzpatrick, objecting to the application. **(Submission attached).**
- A request for speaking rights has been received from Andrew Scurfield, agent, and Paul Fitzpatrick, applicant, in support of the application. **(Submission attached).**

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|--|---------|
| LA07-2016-1092-F Fitzpatrick SSAS.pdf | Page 13 |
| Item 6 - objection Mandy McClean (Fitzpatrick Quarry).pdf | Page 29 |
| Item 6 - objection Cllr. Fitzpatrick (Fitpatrick Quarry).pdf | Page 30 |
| Item 6 - submission of support (Fitzpatrick Quarry).pdf | Page 31 |

7.0 LA07/2017/1394/F - Mr and Mrs Gibney - dwelling and garage on a farm on lands 80m east of No. 89 Demesne Road, Edendariff, Ballynahinch. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Ewart Davis, agent, in support of the application. **(Submission attached).**

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|---|---------|
| LA07-2017-1394-F Mr B and Mrs A Gibney.pdf | Page 32 |
| Item 7 - submission of support (Gibney).pdf | Page 38 |

8.0 LA07/2017/0290/0 - Mr and Mrs McMurray - single storey 200sqm house with outbuilding garage and stores - 110m south of 52 Carsonstown Road, Saintfield. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Stephen Douglas, agent, in support of the application. **(Submission attached).**

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|---|---------|
| LA07-2017-0290-O Mr and Mrs McMurray.pdf | Page 52 |
| Item 8 - submission of support (McMurray).pdf | Page 61 |

9.0 LA07/2017/0426/F - Norman McBriar & Son - proposed change of use from ground floor commercial unit to funeral home - 37 Saintfield Mill, Saintfield. (Case Officer report attached).

Rec: APPROVAL

- At the request of Planners, this application has been withdrawn from the Schedule and will be presented at the May 2018 Planning Committee Meeting

[LA07-2017-0426-F Norman McBriar and Son.pdf](#)

Page 65

10.0 LA07/2017/0950/F - HWM Properties Ltd - housing development with 2 detached and 2 semi-detached dwellings and associated site works - lands adjacent to and rear of 40 Queens Park, Crossgar Road, Saintfield. (Case Officer report attached).

Rec: REFUSAL

- Addendum list

[LA07-2017-0950-F HWM Properties Ltd.pdf](#)

Page 71

11.0 LA07/2017/1077/0 - Eammon O'Rourke - dwelling on a farm including garage - lands to the SE of 32 Dromara Road, Leitrim, Castlewellan. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from John Cleland, agent, in support of the application. **(Submission attached).**

[LA07-2017-1077-O Eammon O'Rourke.pdf](#)

Page 85

[Item 11 - submission of support \(E O'Rourke\).pdf](#)

Page 96

12.0 LA07/2017/1405/0 - Mr V McNabb - proposed site for infill dwelling, detached garage and associated site works - 65m SW of 7 Ballystrew Road, Downpatrick. (Case Office report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Barry Fletcher, agent, in support of the application. **(Submission attached).**

[LA07-2017-1405-O Mr V McNabb.pdf](#)

Page 100

13.0 LA07/2017/1588/F - Philip Young - 2 storey side extension to a dwelling to allow kitchen/dining/living area with lounge above - 77a Cahard Road, Ballynahinch. (Case Officer report attached).

Rec: REFUSAL

- Addendum list

LA07-2017-1588-F Phillip Young Esq.pdf

Page 110

14.0 LA07/2017/1668/F - Mr & Mrs Joseph Bell - conversion of stables to domestic annex to be used as a granny flat - 33 Cluntagh Road, Crossgar. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Gerry Tumelty, agent, in support of the application. **(Submission attached).**

LA07-2017-1668-F Mr and Mrs Joseph Bell.pdf

Page 114

Item 14 - submission of support (Mr and Mrs J Bell).pdf

Page 122

15.0 R/2014/0499/RM - Dunmore Construction - proposed housing development including alterations to existing junction on Middle Tollymore Road and Tollymore Road, 56 units in total, on lands adjacent to 8 Middle Tollymore Road, and opposite no.11, 13, 15 Middle Tollymore Road, Newcastle. (Case Officer report attached).

Rec: APPROVAL

- A request for speaking rights has been received from Ciaran MacFerran and Elizabeth Hardy, on behalf of Sharon Murphy, objecting to the application. **(Submission attached).**
- A request for speaking rights has been received from Colin D'Alton, agent; Michael Rodgers, applicant and David Donaldson, Planning Consultant, in support of the application. **(Submission attached).**

R-2014-0499-RM Dunmore Construction.pdf

Page 126

Item 15 - submission of objection from C MacFerran.pdf

Page 143

Item 15 - submission of support (Dunmore Construction).pdf

Page 149

16.0 LA07/2016/1407/F - Richard Newell - proposed extension of curtilage of existing dwelling house and retention of existing domestic boat house and yard - 75a Glassdrumman Road, Annalong. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Glyn Mitchel, agent , in support of the application. **(Submission attached).**

[LA07-2016-1407-F Richard Newell.pdf](#)

Page 150

[Item 16 - submission of support \(Richard Newell\).pdf](#)

Page 156

17.0 LA07/2017/0105/0 - Mr D Hanratty - proposed tourist camping site consisting of 12 No. glamping pods, shower/toilets/utilities building, children's play area and ancillary works - lands 110m SE of 53 Ballintemple Road, Killeavy. (Case Officer report attached).

Rec: APPROVAL

- Addendum list

[LA07-2017-0105-O Mr D Hanratty.pdf](#)

Page 163

18.0 LA07/2017/0562/F - John Perry - erection of dwelling and garage in substitution for dwelling approved under application P/2008/0825/RM - approx. 320m NW of 21 East Council Road, Maghereagh, Ballymartin. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Colin O'Callaghan, agent, in support of the application. **(Submission attached).**

[LA07-2017-0562-F John Perry.pdf](#)

Page 178

[Item 18 - submission of support \(John Perry\).pdf](#)

Page 187

19.0 LA07/2017/1707/F - Kevin Teggart Senior - erection of replacement dwelling with detached garage - approx. 270m SE of 51 Ayallogue Road, Newry. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Colin O'Callaghan, agent, in

support of the application. **(Submission attached)**.

📄 *LA07-2017-1707-F Kevin Teggart Senior.pdf*

Page 190

📄 *Item 19 - submission of support (K Teggart).pdf*

Page 194

20.0 LA07/2017/0945/F - Board of Governors St. Joseph's High School - sports facilities, open space and play areas. Access from Dundalk Road - 77 Dundalk Road, Crossmaglen. (Case Officer report attached).

Rec: APPROVAL

- Addendum list

📄 *LA07-2017-0945-F Board of Governors St Josephs High School.pdf*

Page 215

21.0 LA07/2017/1633/F - Winnie Hoey - erection of dwelling and associated site works - lands immediately NW and opposite 17 Newry Road, Crossmaglen. (Case Officer report attached).

Rec: REFUSAL

- Addendum list

📄 *LA07-2017-1633-F Winnie Hoey.pdf*

Page 220

22.0 LA07/2017/1697/F - Mr S Hughes - erection of dwelling and garage (change of house type and garage to that approved under P/2005/1285/0 and P/2008/1063/RM) - 90M north of 21 Barrawully Road, Jonesborough, Newry (previously Aghadovyle Road). (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Mr S Hughes and his agent in support of the application. **(Submission attached)**.

📄 *LA07-2017-1697-F Mr S Hughes.pdf*

Page 225

📄 *Item 22 - submission of support (Mr S Hughes).pdf*

Page 229

23.0 LA07/2017/1802/F - Bridget Hasson - proposed infill dwelling and domestic garage - 80m NE of 50 Malachy Conlon Park, Cullaville, Newry. (Case Officer report attached).

Rec: REFUSAL

[LA07-2017-1802-F Mrs Bridget Hasson.pdf](#)

Page 233

24.0 LA07/2017/1804/F - Paddy Murphy - change of house type (previously approved under P/2008/0396/F) - site approx. 300m west of 11 Cranny Road, Newry. (Case Officer report attached).

Rec: REFUSAL

- Addendum list - (Councillor Larkin has requested this application be removed from the addendum list and be deferred for one month to accommodate the applicant in his search for documentation supporting his case).

[LA07-2017-1804-F Mr Paddy Murphy.pdf](#)

Page 237

25.0 LA07/2017/1866/F - Mr & Mrs Murphy - erection of dwelling and garage (change of house type and access position from that previously granted under planning application (P/2006/2029/RM) with new landscaping and associated site works) - approx 35m NW of 44 Mullaghduff Road, Ballymarea, Cullyhanna. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Stephen Hughes, agent, in support of the application. (Submission attached).

[LA07-2017-1866-F Mr and Mrs Murphy.pdf](#)

Page 241

[Item 25 - submission of support \(Mr & Mrs Murphy\).pdf](#)

Page 245

26.0 LA07/2018/0210/F - Henry Noel Quinn - change of house type for that approved under P/2004/1287/0 and P/2007/0613/RM - 260m SE of No. 4 Brackenagh Hall, Mission Road, Ballymartin. (Case Officer report attached).

Rec: REFUSAL

- A request for for speaking rights has been received from the applicant's daughter, Patrina Cunningham, and Barney Dinsmore, agent, in support of the application. (Submission attached).

[LA07-2018-0210-F Henry Noel Quinn.pdf](#)

Page 262

27.0 LA07/2018/0314/F - Newry, Mourne and Down District Council - public art work - full scale replica of the Bessbrook Tram - lands approx. 95m west of 1-6 Derrybeg Villas, Newry. (Case Officer report attached).

Rec: APPROVAL

- Addendum list

LA07-2018-0314-F NMDDC.pdf

Page 272

28.0 P/2014/0427/0 - Joseph McGivern - site for dwelling - to the rear and south of 2 Berkley Grove Warrenpoint. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Brendan Quinn, agent, in support of the application. **(Submission attached).**
- A request for speaking rights has been received from DEA Councillor Michael Carr in support of the application. **(Submission attached).**

P-2014-0427-O Joseph McGivern.pdf

Page 275

Item 28 - submission of support (Joseph McGivern).pdf

Page 284

Item 28 - support from Cllr. Carr (Joseph McGivern).pdf

Page 292

29.0 LA07/2015/0248/F - Sean Fitzpatrick - erect 225kw wind turbine with a 40m high monopole and a 3 blade 13.5m radius rotor. Erect equipment room to serve turbine. Form hardcore access track: 261m North West of 36A Council Road, Kilkeel. (Case Officer report attached).

Rec: APPROVAL


- A request for speaking rights has been received from DEA Councillor H Reilly objecting to the application. **(Submission attached).**
- A request for speaking rights has been received from Brendan Quinn, agent, in support of the application. **(Submission attached)** and a statement from the applicant, Mr Sean Fitzpatrick. **(Statement attached).**

LA07-2015-0248-F Sean Fitzpatrick.pdf

Page 293

Item 29 - objection from Cllr. Reilly (Sean Fitzpatrick).pdf

Page 302

 *Item 29 - submission of support (Sean Fitzpatrick).pdf* *Page 303*

 *Item 29 - statement from Sean Fitzpatrick applicant.pdf* *Page 306*

30.0 LA07/2016/1573/F - Ronald Sloan - replacement dwelling and detached garage - 55m SE of 29 Leitrim Road, Kilkeel. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Brendan Quinn, agent, in support of the application. **(Submission attached).**

 *LA07-2016-1573-F Ronald Sloan.pdf* *Page 309*

 *Item 30 - submission of support (Ronald Sloan).pdf* *Page 316*

For Noting

31.0 March 2018 Planning Committee Performance Report. (Attached).

 *MARCH 2018 Planning Committee Performance Report.pdf* *Page 326*

32.0 Record of Meetings between Planning Officers and Public Representatives,. (Attached).

 *11 April 2018 Committee Report (Record of Meetings).pdf* *Page 334*

33.0 March 2018 Appeals and Decisions. (Attached).

 *Appeals and Decisions March 2018.pdf* *Page 336*

34.0 Contact from Public Representatives - 2 January to 30 March 2018. (Attached).

 *REGISTER OF CONTACTS - Q4 Jan - Mar 2018.pdf* *Page 388*

Invitees

| | |
|--------------------------|--|
| Cllr Terry Andrews | terry.andrews@nmandd.org |
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| Cllr Patrick Brown | patrick.brown@nmandd.org |
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| Cllr William Clarke | william.clarke@nmandd.org |
| Cllr Garth Craig | garth.craig@nmandd.org |
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| Ms Alice Curran | alice.curran@nmandd.org |
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| | |
|-----------------------|--|
| Cllr David Taylor | david.taylor@nmandd.org |
| Cllr Jarlath Tinnelly | jarlath.tinnelly@nmandd.org |
| Cllr John Trainor | john.trainor@nmandd.org |
| Cllr William Walker | william.walker@nmandd.org |

NEWRY, MOURNE & DOWN DISTRICT COUNCIL**Minutes of the Planning Committee Meeting held on Wednesday 7 March 2018 at 10.00am in the Boardroom, Monaghan Row**

Chairperson: Councillor G Craig
Deputy Chairperson: Councillor K Loughran

In attendance: (Committee Members)

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|-----------------------|----------------------|
| Councillor C Casey | Councillor W Clarke |
| Councillor L Devlin | Councillor G Hanna |
| Councillor V Harte | Councillor M Larkin |
| Councillor J Macauley | Councillor D McAteer |
| Councillor M Murnin | Councillor M Ruane |

(Officials)

| | |
|----------------|---|
| Ms M Ward | Director, Enterprise, Regeneration, and Tourism |
| Mr A McKay | Chief Planning Officer |
| Mr P Rooney | Principal Planning Officer |
| Ms A McAlarney | Senior Planning Officer |
| Ms L Coll | Legal Advisor |
| Ms E McParland | Democratic Services Manager |
| Mr A Donaldson | Professional Technical Officer |
| Ms C McAteer | Democratic Services Manager |
| Ms P McKeever | Democratic Services Manager |

P/019/2018: APOLOGIES AND CHAIRPERSON'S REMARKS

No apologies were received – it was noted that Councillor Clarke would be late attending the meeting.

P/020/2018: DECLARATIONS OF INTEREST

No declarations were received.

P/021/2018: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 19 – MEMBER TO BE PRESENT FOR ENTIRE ITEM

- **Item No. 7 - LA07/2016/1261/0** – Mr Thomas Mageean – **Councillor Ruane** was not in attendance when this application was first discussed and advised he would not be taking part in the discussion/decision on this application.
- **Item No. 17 - P/2013/0242/F** – MJM Group – **Councillors Casey, Devlin and Clarke** were not in attendance when this application was first discussed and advised they would not be taking part in the discussion/decision on this application.
- **Item No. 12 - LA07/2016/0199/0** – Liam & Siobhan Boylan - **Councillors Macauley, Hanna, Harte and Clarke** were not present when this application

was first discussed/or at the site meeting and advised they would not be taking part in the discussion/decision

P/022/2018: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 7 FEBRUARY 2018

Read: Minutes of Planning Committee Meeting held on Wednesday 7 February 2018. **(Copy circulated)**

With regard to Planning Application LA07/2016/0199/O, Councillor McAteer asked that the decision in the Minutes be amended in line with the decision taken by Committee and recorded on the Meeting's audio recording to read:

"On the proposal of Councillor McAteer seconded by Councillor Larkin it was agreed to defer Planning Application LA07/2016/0199/O with the preamble that the Woodlands be discounted as the exit route of the new proposed site and the Applicant speaks to the Housing Executive and no other land owner before any final decision was made."

AGREED: On the proposal of Councillor McAteer, seconded by Councillor Murnin it was agreed to accept this amendment to the Minutes of the Planning Committee Meeting held on Wednesday 7 February 2018.

AGREED: On the proposal of Councillor McAteer seconded by Councillor Murnin it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 7 February 2018 as a true and accurate record, subject to the decision on Planning Application LA07/2016/0199/O being amended to read "On the proposal of Councillor McAteer seconded by Councillor Larkin it was agreed to defer Planning Application LA07/2016/0199/O with the preamble that the Woodlands be discounted as the exit route of the new proposed site and the Applicant speaks to the Housing Executive and no other land owner before any final decision was made"

P/023/2018: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – **Wednesday 7 March 2018. (Copy circulated)**

AGREED: It was unanimously agreed to remove the following Planning Applications from the Addendum List: -

- **Item 10 – LA07/2017/1588/F – Philip Young – storey side extension to a dwelling to allow kitchen/dining/living area with lounge above – 77a Cahard Road, Ballynahinch – **Removed from the addendum list at the request of Councillor Craig****

**for presentation at next Planning Committee Meeting.
REFUSAL**

- **Item 19 – P/2014/0427/O** – Joseph McGivern – Site for dwelling – to the rear and south of 2 Berkley Grove, Warrenpoint – **Removed from the addendum list at the request of Councillor Loughran for presentation at next Planning Committee Meeting.**

REFUSAL

AGREED: On the proposal of Councillor Hanna seconded by Councillor Macauley it was agreed to approve the Officer recommendation, as per the Development Management Officer Report, in respect of the following Planning Applications remaining on the Addendum List: -

- **Item 6** – LA07/2017/0746/O – Mrs Eileen Patterson – Dwelling on a farm – land east of and immediately adjacent to No. 10 Castleward Road, Strangford.

APPROVAL

- **Item 8** – LA07/2017/1276/O – Mr & Mrs S McCartan – land between 49 Cargagh Road and 56 Rocks Chapel Road, Lisnamore, Crossgar.

REFUSAL

- **Item 14** – LA07/2017/1162/F – Brendan Kelly – proposed erection of domestic shed and hard standing area (Amended proposal and plans) – 91 Chancellors Road, Lisdrumliska, Newry.

APPROVAL

P/024/2018: **APPLICATIONS FOR DETERMINATION**

AGREED: On the advice of the Chief Planning Officer it was **unanimously agreed to withdraw** the following planning applications from the schedule:-

- **Item 15 – LA07/2017/1559/F** – EDB Construction Ltd – demolition of existing dwelling and provision of 9 No. 2 bedroom apartments and 1 No. 1 bedroom apartments (10 total) – 58 Armagh Road, Newry – **Removed from the schedule at the request of Councillor Ruane for presentation at next Planning Committee Meeting.**
- **Item 16 – LA07/2017/1707/F** – Kevin Teggart Snr – Erection of replacement dwelling with detached garage – approximately 270m SE of 51 Ayalogue Road, Newry – **Removed from the schedule at the request of Councillor Larkin for presentation at next Planning Committee Meeting.**

(1) LA07/2016/1092/F – Fitzpatrick SSAS**Location:**

Lands to the north and west of and the existing Leode Quarry, Leode Road, Hilltown, Newry, Co. Down, BT34 5TJ The site is located approximately 2 miles west of Hilltown.

Proposal:

A lateral extension in a predominantly westerly direction to the existing quarry, the construction of a screening landform, followed by the deepening of the enlarged quarry floor and the provision of a holistic restoration concept for the entire mineral development site.

Conclusion and Recommendation from Planning Official:

Approval

Speaking rights:

Mandy McClean, resident, in objection to the application.

Speaking rights:

Andrew Scurfield, Agent, and Paul Fitzpatrick, Business Development Director, in support of the application.

Speaking rights:

DEA Councillor Gillian Fitzpatrick, in objection to the application.

AGREED: On the proposal of Councillor Ruane seconded by Councillor Hanna it was unanimously agreed to defer Planning Application LA07/2016/1092/F to allow for a site visit to take place in order that Members could assess the overall visual impact and proximity of the quarry to the neighbouring residences from a health and safety perspective.

Councillor Ruane withdrew from the meeting (11.10 am)

(2) LA07/2016/1261/0 – Mr Thomas Mageean**Location:**

Site abutting 20 Junction Road, Saintfield

Proposal:

Proposed dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Sheila Curtin, Agent, in support of the application.

Councillor Larkin proposed and Councillor Hanna seconded to accept the Planning Officer's recommendation in respect of Planning Application LA07/2016/1261/O. The proposal was put to a vote by way of a show of hands and voting was as follows:

FOR: 3
AGAINST: 4
ABSTENTIONS: 3

The proposal was declared lost.

Councillor Devlin proposed and Councillor Larkin seconded to defer Planning Application LA07/2016/1261/O for a period of 4 weeks in order for additional information to be received from DAERA and to come back to Committee if, on receipt of additional information from DAERA, Planning Officials still recommended refusal.

Ms Coll advised the Committee that a decision should not be taken on an application if all information on which the decision was being based was not yet available.

The proposal was put to a vote by way of a show of hands and voting was as follows:

FOR: 5
AGAINST: 5

The Chairperson used his casting vote against the proposal and the proposal was declared lost.

Councillor Crag then proposed, and Councillor Larkin seconded, to defer Planning Application LA07/2016/1261/O for a period of 4 weeks in order for additional information to be received from DAERA and upon receipt of this information, Planning Officers be granted approval to issue the decision under delegated authority.

The proposal was put to a vote by way of a show of hands and voting was as follows:

FOR: 5
AGAINST: 2
ABSTENTIONS: 3

The proposal was declared carried.

AGREED: On the proposal of Councillor Craig seconded by Councillor Larkin it was agreed to defer Planning Application LA07/2016/1261/O for a period of 4 weeks in order for additional information to be received from DAERA.

It was also agreed that Planning Officers be granted approval to issue the decision under delegated authority.

Councillor Ruane returned to the meeting (11.55 am)

(3) LA07/2017/1551/0 – Mr & Mrs Hoey

Location:

Between 43 and 45 Darragh Road, Darragh Cross, Saintfield

Proposal:

Proposed infill opportunity for 2 dwellings under planning policy PPS21

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Hannah and Declan Hoey in support of the application.

AGREED: On the proposal of Councillor Hanna seconded by Councillor Devlin it was agreed to issue a refusal in respect of Planning Application LA07/2017/1551/0 as per officer recommendation.

Abstentions: 0

(4) LA07/2017/1666/0 – Michael & Noleen Trainor

Location:

Between 74 & 78 Clanmaghera Road, Tyrella, Downpatrick

Proposal:

2 infill dwellings

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights

Gerry Tumelty, Agent, in support of the application.

Councillor Hanna proposed and Councillor Macauley seconded to issue a refusal in respect of LA07/2017/1666/0 as per officer recommendation.

The proposal was put to a vote by way of a show of hands and voting was as follows:-

FOR: 8
AGAINST: Nil
ABSTENTIONS: 1

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna seconded by Councillor Macauley it was agreed to issue a refusal in respect of LA07/2017/1666/0 as per officer recommendation.

(5) LA07/2016/0199/0 – Liam & Siobhan Boylan

(Councillors Hanna, Harte and Macauley withdrew from the meeting as they were not at the site visit- 12.20 pm)

Location:

Land zoned for housing to the rear of nos. 68 – 132 Lower Dromore Road, Warrenpoint

Proposal:

15 new dwellings, 4750 sq mtrs (1.1 acres) of native tree planting, landscaping, walls, new estate road and ancillary development including regrading, with access from The Woodlands (Drainage Assessment received)

Conclusion and Recommendation from Planning Official:

Approval

Speaking rights:

Patrick Thornton, objecting to the application.

Speaking rights:

Brendan Quinn, Agent, in support of the application.

Speaking rights:

DEA Councillor M Carr, objecting to the application.

Discussion took place regarding the amendment that had been made to the February Planning Committee Minutes that "it was agreed to defer Planning Application LA07/2016/0199/O with the preamble that the Woodlands be discounted as the exit route of the new proposed site and the Applicant speaks to the Housing Executive and no other land owner before any final decision was made".

Ms Coll advised that a decision had been made at the previous Planning Committee Meeting to defer Planning Application LA07/2016/0199/O and this Minute had now been clarified in terms of what the Councillor had proposed and what the Committee had agreed.

Mr McKay said the Committee had previously agreed to defer the application with the direction that the Agent go off and consider an alternative access. He said whilst the Committee had agreed that the Woodlands should not be a means of

access, it was the means of access proposed in the application and the agent and his clients had confirmed they did not wish to explore an alternative means of access.

Mr McKay said a decision must therefore be taken to either approve or refuse the application before Committee.

Councillor Larkin proposed and Councillor Ruane seconded to issue an approval in respect of Planning Application LA07/2016/0199/O as per officer recommendation.

The proposal was put to a vote and voting was as follows:

FOR: 4
AGAINST: 4

The Chairperson used his casting vote in favour of the proposal and the proposal was carried.

AGREED: On the proposal of Councillor Larkin seconded by Councillor Ruane it was agreed to issue an approval in respect of Planning Application LA07/2016/0199/O as per officer recommendation.

Councillor Clarke entered the meeting at 13.10

(Lunch 13.10 – 14.00)

(12) P/2013/0242/F – MJM Group Ltd

(Councillors Casey, Devlin and Clarke withdrew from the meeting 2.00 pm)

Location:

Lands at Watson Road/Dorans Hill, Newry including lands to the east of Watsons Road

Proposal:

Proposed residential housing development of 200 no. units comprising 61 detached, 126 semi-detached, 13 townhouses (some with garages) improvements and widening of existing Watsons Road and Dorans Hill, introduction of new roundabout and Distributer Road, planting of acoustic barrier along Distributer Road, proposed landscaping, open space, car parking, site and access works.

Conclusion and Recommendation from Planning Official:

Approval

Speaking rights:

A request for speaking rights had been received from Desmond O'Loan, Watson Road Residents Group, objecting to the application. Mr McKay said the Residents Group had emailed to advise they were withdrawing their request to speak as a

number of their concerns had been addressed by the applicant and the Residents Group were now generally content.

Speaking rights:

A request for speaking rights had been received from Richard O'Toole, MBA Planning, in objection to the application. Mr McKay said a submission from MBA objecting to the application was contained in the Members' papers for the meeting and that this objection remained. The representative from MBA had indicated they wished their objection to be taken as "read".

Speaking rights:

Deborah Loughran, agent in support of the application.

Noted:

Councillor Larkin asked for an affirmation from the residents present if they were happy with the proposals and this was received.

AGREED: On the proposal of Councillor Larkin seconded by Councillor McAteer it was agreed to issue an approval in respect of Planning Application P/2013/0242/F as per officer's recommendation.

ABSTENTIONS: 0

Councillors Casey, Devlin and Clarke re-joined the meeting (2.25 pm).

(13) LA07/2017/1895/F – Brian & David Gallagher

Location:

Approx. 55m SE of No. 6 Molly Road Lower, Jonesborough, Newry

Proposal:

Erection of dwelling and detached garage, new landscaping and associated site works, in compliance with PPS21-CTY6 – personal and domestic circumstances

Conclusion and Recommendation from Planning Official:

Refusal

AGREED: On the proposal of Councillor Macauley seconded by Councillor McAteer it was agreed to exclude the public and press from the Meeting during discussion on the following matter which related to exempt information by virtue of Paragraph 1 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 – information relating to any individual

Speaking rights:

Stephen Hughes, Agent, in support of the application.

On the proposal of Councillor McAteer, seconded by Councillor Macauley, it was agreed to come out of closed session.

When the Committee was out of closed session the Chairperson reported the following decision had been taken:

AGREED: On the proposal of Councillor Hanna seconded by Councillor Larkin it was agreed to defer planning application LA07/2017/1895/F for one month to give the agent/applicant an opportunity to submit to Planning Officers written evidence from relevant professionals to support and document the issues presented verbally to the Committee.

It was also agreed that Planning Officers be granted approval to issue the decision under delegated authority but if the opinion continued as a refusal, that the application come back to Committee.

Abstentions: 0

FOR NOTING

P/024/2018: PLANNING COMMITTEE MEETING PERFORMANCE REPORT FEBRUARY 2018

Read: Planning Committee Performance Report February 2018. **(Copy circulated)**

AGREED: It was agreed to note the Planning Committee Performance Report February 2018.

P/025/2018: MEETINGS BETWEEN PLANNING OFFICERS AND PUBLIC REPRESENTATIVES

Read: Record of Meetings between Planning Officers and Public Representatives 2017-2018. **(Copy circulated)**

AGREED: It was agreed to note the record of Meeting between Planning Officers and Public Representatives.

P/026/2018: APPEALS & DECISIONS

Read: Report re: Appeals and Decisions – February 2018. **(Copy circulated)**

AGREED: It was agreed to note the Appeals and Decisions February 2018.

The Meeting concluded at 3.00 pm.

For confirmation at the Planning Committee Meeting to be held on Wednesday 11 April 2018.

Signed: _____ **Chairperson**

Signed: _____ **Chief Executive**

Item 5 – Addendum List

Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 11 April 2018

The following planning applications listed on the agenda, have received no representations or requests for speaking rights. Unless a Member wishes to have these applications presented and discussed, the Planning Committee will be asked to approve the officer's recommendation and the applications will be taken as "read" without the need for a presentation. If a Member would like to have a presentation and discussion on any of the applications listed below they will be deferred to the next Committee Meeting for a full presentation:-

- **Item 9 - LA07/2017/0426/F** - Norman McBriar & Son - proposed change of use from ground floor commercial unit to funeral home - 37 Saintfield Mill, Saintfield. **APPROVAL (Submissions of objection have been received from local residents although they were not accompanied by a request for speaking rights).**
- **Item 10 - LA07/2017/0950/F** - HWM Properties Ltd - housing development with 2 detached and 2 semi-detached dwellings and associated site works - lands adjacent to and rear of 40 Queens Park, Crossgar Road, Saintfield **REFUSAL**
- **Item 13 - LA07/2017/1588/F** - Philip Young - 2 storey side extension to a dwelling to allow kitchen/dining/living area with lounge above - 77a Cahard Road, Ballynahinch. **REFUSAL**
- **Item 17 - LA07/2017/0105/0** - Mr D Hanratty - proposed tourist camping site consisting of 12 No. glamping pods, shower/toilets/utilities building, children's play area and ancillary works - lands 110m SE of 53 Ballintemple Road, Killeavy. **APPROVAL**
- **Item 20 - LA07/2017/0945/F** - Board of Governors St. Joseph's High School - sports facilities, open space and play areas. Access from Dundalk Road - 77 Dundalk Road, Crossmaglen. **APPROVAL**
- **Item 21 - LA07/2017/1633/F** - Winnie Hoey - erection of dwelling and associated site works - lands immediately NW and opposite 17 Newry Road, Crossmaglen. **REFUSAL**
- **Item 23 - LA07/2017/1802/F** - Bridget Hasson - proposed infill dwelling and domestic garage - 80m NE of 50 Malachy Conlon Park, Cullaville, Newry. **REFUSAL**
- **Item 24 - LA07/2017/1804/F** - Paddy Murphy - change of house type (previously approved under P/2008/0396/F) - site approx. 300m west of 11 Cranny Road, Newry. **REFUSAL (Councillor Larkin has requested this application be removed from the addendum list and be deferred for one month to accommodate the applicant in his search for documentation supporting his case).**
- **Item 27 - LA07/2018/0314/F** - Newry, Mourne and Down District Council - public art work - full scale replica of the Bessbrook Tram - lands approx. 95m west of 1-6 Derrybeg Villas, Newry. **APPROVAL**

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| | | | | |
|------------------------|--|--------------------|----------------------|---|
| ITEM NO | 2 | | | |
| APPLIC NO | LA07/2016/1092/F | Full | DATE VALID | 12/08/2016 |
| COUNCIL OPINION | APPROVAL | | | |
| APPLICANT | Fitzpatrick SSAS C/O Eadie House 74 Kirkintilloch Road Bishopbriggs Glasgow G64 2AH | | AGENT | Andrew Scurfield BSc MRICS 6 Saintfield Road Crossgar Downpatrick BT30 9HY |
| LOCATION | Lands to the north and west of and the existing Leode Quarry Leode Road Hilltown Newry Co Down BT34 5TJ | | | |
| PROPOSAL | A lateral extension in a predominantly westerly direction to the existing quarry, the construction of a screening landform, followed by the deepening of the enlarged quarry floor and the provision of a holistic restoration concept for the entire mineral development site | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | |
| | 10 | 0 | 0 | |
| | | | Addresses | Signatures |
| | | | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |



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

**Newry, Mourne
and Down
District Council**

Application Reference: LA07/2016/1092/F

Date Received: 12th August 2016

Proposal: A lateral extension in a predominantly westerly direction to the existing quarry, the construction of a screening landform, followed by the deepening of the enlarged quarry floor and the provision of a holistic restoration concept for the entire mineral development site

Location: Lands to the north and west of and the existing Leode Quarry, Leode Road, Hilltown, Newry, Co Down, BT34 5TJ
The site is located approximately 2 miles west of Hilltown.

Site Characteristics & Area Characteristics:

The site is located at Leode Road, Hilltown in an outcrop of elevated land at the NW edge of the Mourne Mountains. It is over 200m above sea level. The site contains an existing operational hard rock quarry and associated plant. The current worked area is around 20 hectares, though it is constrained by public roads and geotechnical issues that prevent further deepening. It is proposed to extend the quarry in a westerly direction into current agricultural land which is laid out in a number of different fields. The topography of the area is such that the main public views into the site are from the north and NE, the closest being from Tamary Road around 0.3 miles away, and from as far as Rathfriland which is 3 miles away. The main existing



quarry face is visible from both these locations and a number of intervening points. The proposal would remove this outcrop of rock reducing the visual impact in the long term. Tamary Road continues around the western side of the quarry, though the site is screened from this side by a local ridge running parallel to the road. A number of private dwellings are located over this ridge and would overlook the site. It is proposed to construct substantial screening landforms to mitigate these private views from the west and the more open public views from the north.



Existing workings



Existing quarry face from Tamary Road to the north

The site is located in a rural area halfway between Hilltown and Mayobridge. It is in an unzoned area outside settlement limits on the Banbridge, Newry and Mourne

Area Plan 2015. It is also just within the Mourne and Slieve Croob Area of Outstanding Natural Beauty. It is no longer an Area of Constraint on Mineral Development. The local development pattern consists mainly of clustered farm groups with occasional one-off dwellings. There is a wind turbine just to the north of the quarry. The image below illustrates the additional area where rock is proposed to be extracted (outlined orange).



Site History:

Quarrying has taken place on this site since 1955. There have been a series of planning approvals as the site and plant have been extended:

| Reference | Location | Proposal | Decision | Decision Date |
|-------------|--|---|--------------------|---------------|
| P/1979/1398 | LEODE, HILLTOWN | Proposed Extension to Existing Quarry | PERMISSION GRANTED | 05/08/1980 |
| P/1981/0711 | LEODE ROAD, HILLTOWN | Proposed extension to quarry and installation of machinery | PERMISSION GRANTED | 06/01/1982 |
| P/1988/0890 | LEODE QUARRIES NO 26 LEODE ROAD HILLTOWN | New access to quarry | PERMISSION GRANTED | 27/09/1988 |
| P/1989/1407 | LEODE QUARRIES LEODE ROAD HILLTOWN | Extension to quarry | PERMISSION GRANTED | 19/05/1990 |
| P/1990/0740 | LEODE QUARRY LEODE ROAD HILLTOWN | Erection of office building | PERMISSION GRANTED | 07/02/1991 |
| P/1993/0185 | LEODE QUARRIES, LEODE ROAD HILLTOWN | Erection of asphalt processing plant and retention of existing vehicle storage shed | PERMISSION GRANTED | 14/04/1995 |
| P/1996/0415 | LEODE QUARRIES LEODE ROAD HILLTOWN | Extension to quarry & erection of additional plant | PERMISSION GRANTED | 06/03/1998 |

| Reference | Location | Proposal | Decision | Decision Date |
|---------------------|---|---|--|---------------|
| P/1997/1474 | 70 METRES SOUTH WEST OF NO 15 LEODE ROAD HILLTOWN | Extension to Stone Quarry | PERMISSION GRANTED | 16/12/1999 |
| P/1997/1476 | 200 METRES SOUTH EAST OF NO 21 LEODE ROAD HILLTOWN | Extension to Stone Quarry | PERMISSION GRANTED | 16/12/1999 |
| P/2001/2157/F | Lead Quarry, Leode Road, Rathfriland BT34 5TJ | Proposed alteration to plant | PERMISSION GRANTED | 29/08/2002 |
| P/2003/0790/F | Lead Quarry, Leode Road, Hilltown. | Proposed extension to Quarry | PERMISSION GRANTED | 30/01/2006 |
| P/2005/1980/F | Leode Quarry, Leode Road, Hilltown, Newry | Variation of planning condition No 2 of planning permission P/1997/1476 to allow for deepening of quarry floor | PERMISSION GRANTED | 30/01/2006 |
| P/2006/2204/F | Leod Quarry, Leode Road, Hilltown, Newry | Demolition of existing coated roadstone plant and erection of replacement coated roadstone plant at a lower level. Erection of associated ancillary aggregate storage sheds. | PERMISSION GRANTED | 17/07/2007 |
| LA07/2015/1120 /PAN | Lands to the north and west of and the existing Leode Quarry, Leode Road, Hilltown, Newry, Co Down, BT34 5TJ, | A lateral extension in a predominantly westerly direction to the existing quarry with subsequent deepening of the enlarged quarry floor, the construction of screening banks and the provision of a holistic restoration concept for the entire mineral development site. | PROPOSAL OF APPLICATION NOTICE IS ACCEPTABLE | 20/11/2015 |

As the current application is a major application as defined by the Planning (Development Management) Regulations (Northern Ireland) 2015, it was preceded by a Proposal of Application Notice and a period of Pre-application Community Consultation as required by legislation – see report in Environmental Statement. The current proposal is for the winning and working of greywacke gritstone by drilling and blasting at a rate of 350,000 tonnes per year and for loading and hauling within the site. It will be processed by the existing fixed processing and coated road stone plants at the opposite end of the site which are not subject to this application. A restoration concept to facilitate public amenity use of the site at the end of the quarry's operational life has been provided.

Planning Policies & Material Considerations:

- 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
- PPS6 – Planning, Archaeology and the Built Heritage
- A Planning Strategy for Rural Northern Ireland

Consultations:

- TransportNI – No objections.
- NI Water – No objections. Public water supply available. Existing water main crossing site.
- Environmental Health – No objections subject to conditions regarding operating hours, noise levels from blasting and other operations and dust mitigation.
- NIEA – Standard advice on site drainage. Extension to existing PPC permit (for dust control) required before operations commence. Excavation depths acceptable with regard to groundwater. Additional Environmental Information regarding badgers and newts was requested. This was provided in May 2017. NIEA now has no objections subject to conditions protecting the area around the badger sett.
- Rivers Agency – Drainage Assessment required. This was provided in May 2017 and agreed by Rivers Agency.
- Shared Environmental Service – No effects on European sites.
- Loughs Agency – No remit to comment.
- DETI Geological Survey – No objections.
- Health & Safety Executive – No objections regarding separation distances and bench widths. Condition recommended to amend shot-firing rules.
- Historic Environment Division – No objections subject to conditions requiring a developer-funded programme of archaeological works in the initial site stripping phase.

Objections & Representations

The original application and Environmental Statement were advertised in 3 local newspapers on 2nd September 2016. Additional Environmental Information was advertised on 29th June 2017. Final changes to the drawings were advertised on 11th January 2018. 12 neighbouring properties were notified of the proposal on 29th September 2016, 16th June 2017 and 15th December 2017.

Letters of objection were received from the owners of 7 local properties, plus another in Hilltown. Their objections include damage to their properties and human health from blasting, safety issues for children and livestock on adjoining land, nuisance from noise and dust, the adverse visual impact of the site and the proposed extension on the Mournes AONB, impact on wildlife, that screening was not provided

as required under previous applications, impact on tourism, additional traffic disruption, and impact on an old laneway within the site.

In assessing these concerns, the Council must balance the adverse environmental and other impacts that mineral workings can create with the need for the resource and the economic benefits of extracting it. It is recognised that minerals can only be extracted where they are found and that the extension of existing sites is more sustainable than the commissioning of completely new sites from scratch. The existing workings at Leode Road can be rounded off and subsequently deepened and there will be limited increased visual impact provided the proposed screening bunds and landscaping measures are undertaken as proposed. Having had regard to the advice of expert consultees and the concerns of objectors, the Council sought some amendments to the extent of the proposed extraction, taking into account the position of neighbouring dwellings and other public views. However, the geotechnical make-up of the rock (which requires it to be worked in a south to north direction) made it difficult to make substantial changes to the proposal. Even a small change to the position of the bund (20m) would result in the loss of 1 million tonnes of material due to the reduced depth that could be worked. We then sought changes to the height of the bunds, making them steeper at key locations to further limit the views into the site, particularly from dwellings to the west. It is considered that the revised proposal has gone some way to address the visual concerns raised. The site is relatively well enclosed from the wider landscape of the Mourne AONB and no verifiable evidence that the proposal would harm the tourism potential of the area has been given.

Safety is a matter primarily for the operator, though there were no issues raised by consultees given the separation distance of over 100m to any occupied dwelling. If there are subsequent concerns regarding blasting activities on site, these can be raised with the Health and Safety Executive on a case-by-case basis. Environmental Health was content with the noise and dust mitigation measures outlined in the Environmental Statement. Wildlife surveys were undertaken and NIEA Natural Environment Division is now content subject to conditions regarding badgers. It is understood that previously conditioned tree planting was undertaken, but the saplings became choked by whin bushes and died. The applicant intends to use whins as a nurse species in the extensive landscaping scheme now proposed, but then control it to permit tree growth. The provision of the bund and planting will be conditioned as part of the approval and any breaches can be followed up by the Council's Planning Enforcement team. The P1 Form indicates that there will be no increase in traffic attending the site as a result of the extended workings and TransportNI had no objections. The old laneway is no longer in use and is not a public right of way. It is on private land and there is no reason in policy to preserve it. However, there is a traditional vernacular dwelling along the laneway and it is intended to preserve this by planning condition as part of the heritage of the area.

It is the Council's view that the conditions proposed will provide adequate mitigation to prevent unacceptable adverse impacts on the objectors or other sensitive receptors. The objection letters cannot therefore be given determining weight.

Consideration and Assessment:

As the development is within Category 19 – Quarries and open-cast mining where the surface of the site exceed 25 hectares – of Schedule 1 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015, an Environmental Statement was automatically required and was submitted with the application. The Environmental Statement and subsequent additional information has been advertised in accordance with statutory requirements and has been taken into consideration in the determination of the application.

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 outside settlement limits in a rural area and within the Mournes and Slieve Croob Area of Outstanding Natural Beauty. With regard to mineral development, the Plan states that hard rock quarries in the Mournes area are to be found in the foothills northeast of Mayobridge and on the outskirts of Newry. The minerals are used to produce building and road stone aggregates for Banbridge, Newry and Mourne and the wider Belfast markets. It notes that there is consistent demand for aggregates over a relatively long period. The Plan aims to balance the need for extraction against the need to protect and conserve the environment. Specific policy for mineral extraction is found in the SPPS and the PSRNI.

The SPPS sets out core planning principles to be employed in the quest to achieve sustainable development. Of particular relevance to this application are supporting sustainable economic growth and preserving and improving the natural environment. 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. Minerals are an important natural resource and their responsible exploitation is supported by Government. The minerals industry makes an essential contribution to the economy and to our quality of life, providing primary minerals for construction, such as sand, gravel and crushed rock, and other uses, and is also a valued provider of jobs and employment, particularly in rural areas. This development will facilitate the extraction of minerals from the site for around 30 more years and the land will then be restored to a lake and woodland area with potential public amenity and biodiversity value. It will yield some 350,000 tonnes of aggregate per year for the local construction and road building/maintenance industry with associated economic benefits (it presently contributes around £4 million per year to the local economy) and it is considered that the works can be undertaken without long-term harm to the natural environment. Most of the extraction will take place within the existing quarry footprint (by deepening) once it is widened by the lateral extension (which is required to unlock the deeper resource). Having regard to the planning history of the site, the Environmental Information provided and the advice of consultees, this is considered a sustainable development in principle.

As there is no significant change to the policy requirements for mineral development following the publication of the SPPS and it is arguably less prescriptive, the retained policy in the Planning Strategy for Rural Northern Ireland will be given substantial

weight in determining the application in accordance with paragraph 1.12 of the SPPS.

Policy MIN 1 relates to environmental protection. A number of areas have been considered:

- The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Services on behalf of the Council. The proposal would not be likely to have a significant effect on the features of any European site. The site is not within the Carlingford Land Drainage Basin, so there is no hydrological linkage to Carlingford Lough. There are no Areas of Special Scientific Interest or National Nature Reserves within 2km of the site.
- There are no designated archaeological sites that overlap the proposed development, though Historic Monuments Unit has advised that there are a number of recorded sites in the surrounding area. Large application sites such as this are rarely archaeologically sterile and have potential to contain extensive sub-surface archaeological remains. An Archaeological Impact Assessment was included within the Environmental Statement with mitigation measures recommended. Historic Monuments Unit is content with the proposal subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This will meet the requirements of policy BH4 of PPS6.
- There is a derelict 19th Century vernacular dwelling / outbuildings near the northern edge of the site. These buildings are beyond the outside edge of the proposed screening bund and can be preserved in their current state while facilitating the scheme. A condition should be imposed to retain these buildings for the heritage benefit of future generations as they reflect the land use and built heritage of the area before the quarry was developed. A photographic and descriptive survey should also be undertaken.
- An ecological assessment was undertaken to assess the effects of the development on wildlife and habitats. Following some clarifications, NIEA Natural Environment Division is now content with the proposal subject to mitigation conditions regarding distance from a badger sett. Survey work revealed no further issues regarding bats, birds or other mammals. The planting of native trees and shrubs on the screening landform during the first phase of the works will provide new habitat for a range of species which will compensate for the loss of existing scrub habitat and boundary features. The proposal is considered to meet the requirements of PPS2.
- The agricultural land that will be lost to the proposal is not of particularly high quality given its elevated and undulating nature, the presence of extensive gorse and its proximity to the existing workings. It is considered more sustainable to extend the quarry into this area than commission a new site which would require a much greater surface area to extract the same amount of resource. Therefore there are no concerns about the loss of good quality agricultural land to the extension.
- The existing quarry workings are dewatered. The maximum depth of extraction will be 154mAOD. This will be conditioned. A hydrogeological survey has indicated that there are no concerns regarding groundwater. NIEA Land and

Minerals can only be extracted from where they are found. The AONB location does not necessarily rule out the utilisation of this resource. The visual impact on the landscape must also be assessed against policy NH6 of PPS2. Policy MIN2 states that mineral workings should take advantage of existing landforms and features to minimise their visual impact in the landscape. This site has a significant ridge line to the south which screens all public views from this direction. There is also higher land to the west which screens views from Tamary Road and beyond. The main public views into the site are from the north and north-east as the land beyond the site falls significantly. A Landscape and Visual Impact Assessment has been undertaken by a Chartered Landscape Architect and the results have informed the design of a screening bund which is to be provided during the first phase of works and landscaped with native planting during the first available planting season. This has been designed with shallow slopes to replicate natural topography, though the slope has been increased at key locations following negotiation with the operator to ensure that the final height of the bund will appropriately limit significant views. The commissioning phase will undoubtedly result in some loss and disruption to local landscape character from certain short and medium range views, though this is considered to be of relatively short duration in the context of the predicted 30 year operation. Once the bund is established and planted, it will effectively screen the most significant public views into the quarry and also a number of views from private properties to the west as shown by line-of-sight cross sections. Once the first two phases are complete and the existing western face is moved back to meet the bund (by the 10 year point), the majority of the development which involves deepening of the existing quarry floor can proceed with negligible visual impact from the surrounding landscape. Provided the phases are appropriately conditioned, the duration of the operations is restricted and the site is subsequently restored, any negative impacts on visual amenity and the special character and landscape quality of the AONB would be short term, limited and therefore greatly outweighed by the need for the mineral resource which is easily workable at this location. Neither are the impacts of the proposal on the value of the area as a tourist resource sufficient to outweigh the economic advantages of exploiting the mineral resource. The proposal is considered to meet the requirements of policies MIN 2 and NH6.

Policy MIN 6 considers the safety and amenity of the occupants of nearby dwellings. It is acknowledged that mineral developments can be bad neighbours of housing. The edge of the application site is 80 metres from the nearest dwelling, though there will be a wide screening bund between it and the edge of the worked area. Once the bund is constructed and landscaped in the first phase (before any blasting takes place in the extended area), it will limit views into the site from these properties and will also reduce impacts from noise and dust. The edge of the worked area will be over 120 metres from the dwellings ensuring that all blasting will be beyond the recommended minimum safe distance. Indeed most blasting will be towards the centre of the site to deepen the quarry floor and the new landform should result in a lesser noise impact than the current arrangement. A blasting report has been prepared by an independent Blasting Engineer based on historical blasting data for this site. It found that recommended limits for ground vibration and air overpressure will not be exceeded and that separation distances to residential properties are adequate. There were no objections on blasting grounds from the Health and Safety Executive, though they recommended that the Company's shot firing rules are amended to stop the traffic on the public road for the short duration of the blast (approximately 10 minutes) so as not to shock unsuspecting motorists driving past

the quarry. This will be conditioned. A noise impact assessment was undertaken in accordance with recognised standards for mineral sites. The works required in the first phase to create the screening landform will be the noisiest for residents. They will operate in accordance with the temporary daytime limit of 70 db LAeq, for up to 8 weeks a year. This is considered acceptable for a temporary period given the longer term environmental benefits that will result. The normal operations of the quarry will have a target noise level of 47 db at the nearest noise sensitive receptors, well within the upper limit of 55 db. A number of mitigation measures will be taken including the conditioning of operating hours to prevent any night time activity, careful selection of plant, on-site speed limits, and routine maintenance of plant and machinery including silencers and acoustic covers. The deepening of the quarry will gradually improve the noise climate compared to current levels. A Dust Impact Assessment has shown that the sensitive receptors are already topographically screened, screening will be supplemented by the new landform and planting, and the site already operates under a PPC licence for dust control with no complaints. A mitigation plan has been proposed to ensure no adverse effects on amenity. Environmental Health is satisfied with the proposal subject to conditions regarding operating hours, noise levels from blasting and other operations and dust mitigation. It is not contrary to policy MIN 6.

Policy MIN 7 requires consideration of the traffic implications of mineral development. Linked to this is Policy AMP2 of PPS3 which requires that the access does not prejudice road safety or significantly inconvenience the flow of traffic. The P1 Form indicates that the operation will not generate any additional vehicle movements as output will continue at the current rate and no changes are required to the existing approved access. The stretch of Leode Road between the site entrance and the main Newry Road has been improved and provides suitable access to the strategic road network for lorries. TransportNI are content with the proposal without conditions and the Council is therefore satisfied that the development will not prejudice the safety and convenience of road users.

Policy MIN 8 requires mineral workings to be restored at the earliest opportunity. When the mineral reserves on the site are exhausted after around 30 years, plant will be removed from the site and the de-watering pumps will be turned off allowing the void to fill with water. The site will continue to drain from the NE corner through the established permitted discharge location (via a hydrocarbon interceptor). The initial tree planting from phase 1 will be supplemented by additional planting. The restoration scheme will provide an area of public amenity and biodiversity value subject to appropriate consents which can be considered in the circumstances then prevailing. A plan of the proposed restoration scheme has been provided and the carrying out of these works will be conditioned.

Having had regard to the development plan and all other material considerations, the proposal is considered a sustainable development that will not cause demonstrable harm to interests of acknowledged importance. It should therefore be approved subject to the conditions identified below.

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 quarrying activities hereby approved including extraction shall be carried out on the site outside the hours of 7.00am to 7.00pm Monday to Friday, 7.00am to 3.00pm Saturdays, nor at any time on Sundays, Bank or Public Holidays.

Reason: In the interests of the amenity of nearby residents.

3. 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.

4. 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.

5. The vernacular dwelling and outbuildings at the northern edge of the site, shaded green on the approved drawing No. 02 date stamped 12 August 2016, shall be retained and maintained in their current state as a local heritage asset and no development shall take place within 5 metres of these buildings. Prior to the commencement of any development, a descriptive and photographic survey of the buildings shall be undertaken and a copy provided to the Council.

Reason: To ensure the preservation of vernacular buildings which reflect the heritage of the local area.

6. Mineral extraction shall not commence in the extended area to the west of the current site until earth banks have been constructed using the overburden from the site as indicated on the approved drawing Nos. 04 REV 1 and 11 REV 1 date stamped 8 December 2017.

Reason: In the interests of visual amenity.

7. During the first available planting season after the construction of the earth banks in accordance with condition 6, trees and shrubs shall be planted along the boundaries of the site in the positions shaded green on the approved advanced landscape plan 09 REV 1 date stamped 8 December 2017 in accordance with the planting schedule on the above plan. The woodland shall be managed in accordance with the notes on the above plan to ensure its effective establishment and growth.

Reason: In the interest of visual amenity.

8. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

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

9. No extraction shall take place within 5 metres of any land which is outside the red line boundary of the site as shown on the stamped approved Drawing No. 02 bearing the date stamp 12 August 2016.

Reason: In the interests of public safety.

10. The rate of extraction shall not exceed a five year average 350,000 tonnes per year.

Reason: In the interests of amenity.

11. No extraction shall take place below the following levels:
 - 154 metres A.O.D. in the western portion of the site;
 - 157 metres A.O.D. in the eastern portion of the site;as shown on the approved drawings.

Reason: To limit the extent of the development.

12. Each blasting charge shall be so balanced that a peak particle velocity of 10mm/second and an air over pressure of 128 dB is not exceeded at any occupied dwelling which is outside the ownership or control of the operator.

Reason: To safeguard the amenity of residents in the area.

13. All dust mitigation measures specified in the document entitled, 'Construction of screening landform and lateral and vertical extension to Leode Quarry' prepared by Quarryplan and dated November 2015, shall be instigated to minimise the generation and movement of dust from the proposed development to surrounding residential dwellings.

Reason: To safeguard the amenity of residents in the area.

14. The noise impact from the quarry extension as hereby approved shall have a Daytime Target Noise Limit of 47dBLAeq at the outdoor amenity area of the nearest residential properties.

Reason: To protect residential amenity.

15. An increased temporary daytime limit up to 70dB LAeq at the outdoor amenity area at NSR 3 (17 Tamary Road, Hilltown) shall be permitted for a maximum of 8 weeks per year until the construction of the screening landform required by condition 6 has been completed in accordance with drawing Nos. 04 REV 1 and 11 REV 1 date stamped 8 December 2017.

Reason: To achieve long term environmental benefits from the screening landform.

16. Following the completion of Phase 1 the on-site generator shall be enclosed within a 3 metre high berm.

Reason: To protect residential amenity

17. All noise mitigation measures specified in the document entitled, 'Noise Impact Assessment' prepared by Envest Environmental and dated June 2016, shall be instigated to minimise the noise impact from the proposed development to surrounding residential dwellings.

Reason: To protect residential amenity.

18. Prior to the commencement of development, the operator shall prepare and implement a monitoring and action plan for groundwater that may be encountered during the operations. The monitoring plan should include details for groundwater quantity including the proposed location of monitoring points and monitoring frequency. The action plan should outline actions to be taken if a highly transmissive fracture is unexpectedly intercepted.

Reason: Protection of the aquatic environment and sensitive receptors including private wells.

19. Before extraction commences, oil, petrol, diesel oil, and lubricant storage facilities shall be surrounded by an impervious bund or enclosure able to contain a minimum of 110% of the volume of the largest tank. All filling and distribution valves, vents, and sight glasses associated with storage tanks shall be located within the bunded area. There shall be no bund drain valves as this would be in breach of the Control of Pollution (Oil Storage) Regulations (Northern Ireland) 2010.

Reason: To minimise the risk of accidental pollution.

20. The operator shall amend their shot firing rules to stop the traffic on the public road for the duration of the blast so as not to shock unsuspecting motorists driving past the quarry. The amended shot firing rules shall be agreed in writing with the Health and Safety Executive for Northern Ireland and a copy

of the agreement shall be provided to the Council prior to the commencement of development.

Reason: In the interests of highway safety.

21. No site clearance or mineral extraction shall commence on site until a protection zone, clearly marked with posts joined with hazard warning tape, has been provided from the badger sett entrance as shown on the approved Drawing No. 03 date stamped 12 August 2016 at a radius of 25 metres. No works, clearance, disturbance by machinery, dumping or storage of materials shall take place within that protection zone without the consent of NIEA Natural Environment Division. The protection zone shall be retained and maintained until all operations have been completed on site.

Reason: To protect badgers and their setts.

22. No piling or blasting activity shall take place within 100m of the badger sett on site, as shown on the approved Drawing No. 03 date stamped 12 August 2016, without the consent of NIEA Natural Environment Division.

Reason: To protect badgers and their setts.

23. Upon completion of the extraction hereby approved, or in the event of operations ceasing in advance of the exhaustion of approved reserves for a continuous period of 6 months and within 3 months of a written request from the Council, a site restoration plan shall be submitted to the Council for its approval, in writing. This plan shall include the following:-
- i. the identification of all items of plant, machinery, scrap metal, stockpiles and waste material to be removed;
 - ii. the identification of all areas to be levelled or graded;
 - iii. the position of all quarry faces, together with details of measures to be used to ensure that all final faces are left in a safe and stable condition;
 - iv. the identification of areas which are liable to flood, together with details of proposed measures to ensure public safety;
 - v. details of any additional landscaping measures to be implemented;
 - vi. a timescale for the implementation of the restoration scheme; and
 - vii. arrangements for the future management of any public amenity areas created.

The restoration scheme shall be implemented in accordance with the approved Drawing No. 10 REV 1 and the site restoration plan as finally approved and within the approved timescale.

Reason: To facilitate restoration of the site.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

Item 6 – LA07/2016/1092/F – Fitzpatrick SSAS**Submission of objection from Mandy McClean**

1. Health and Amenity to the local residents.
2. Visual Impact, screening specifics, size type and maintenance.
3. Increase in noise levels by 10 decibels to 47 db. and increase up to 70db for 8 weeks!
4. Who is liable if there is any potential damage to our homes?
5. Point 6.159 Strategic Planning Policy

Statement 2015

“Proposal for minerals development must also have particular regard to the safety and amenity of the occupants of developments in close proximity to the mineral workings.

Minerals development likely to compromise safety or to significantly impair the amenity of people living or working in proximity to the site will not normally be acceptable”

Ref: LA07/2016/1092/F – Fitzpatrick SSAS

Colette

With ref to the above application

I'd like to request speaking rights

I would like to state

1. Thank you for having Site visit
2. I hope you've seen the concerns the residents have in terms of impact on the landscape
3. That the security must be in place regarding mature trees for shielding; hedges and fences.
4. Measures in place for ensuring youth and vulnerable people to not encroach on the Site
5. Secure fencing that is befitting of the Site and in keeping with the landscape... signage is not enough.
6. People are given sufficient notice of explosions and perhaps a restriction on number of explosions per year
7. Can it be agreed that consideration be given when residents advise there is damage to their homes as a result of explosions
8. That all measures are in place prior to any "explosions" etc

Thank you

Gillian Fitzpatrick

RE: LA07/2016/1092/F - Extension to Leode Quarry - Item 6

I would like to confirm that my Client would like to reserve the right to again make a presentation at the meeting covering some of the outstanding points raised by Committee Members at the last meeting, but would have been best to address via visual aids.

Topics:

- Quarrying a Highly Regulated Industry;
- Fencing Legislative Requirement;
- Landscaping / Tree planting and Restoration;
- Landform Creation and visual impact;
- Photo realistic visualisations;
- Employment and contribution.

This list provides an indication of the general areas to be covered, but is not exhaustive.

I look forward to hearing from you with confirmation,

Regards

**Andrew
Andrew Scurfield BSc MRICS
Chartered Mineral Surveyor
Quarryplan Limited**

| | | | | |
|------------------------|---|--------------------|----------------------|---|
| ITEM NO | 12 | | | |
| APPLIC NO | LA07/2017/1394/F | Full | DATE VALID | 11/09/2017 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | Mr B and Mrs A Gibney 83 Demesne Road Edendarriff Ballynahinch BT24 8NS | | AGENT | Ewart Davis 14 Killynure Avenue Carryduff Belfast BT8 8ED |
| LOCATION | 80m East of 89 Demesne Road Edendarriff Ballynahinch BT24 8NS | | | |
| PROPOSAL | Dwelling and garage on a farm | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 0 | 1 | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |

- 1 The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2 The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.
- 3 The dwelling is sited within 75m of a farm building, outside the applicants control/ownership, which has the potential to cause unacceptable public health nuisances from odour, noise and pests.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1394/F

Date Received: Sept 2017.

Proposal: Full permission is sought for a Dwelling and garage on a farm, on lands 80m east of no.89 Demesne Road, Edendariff.

Applicant: Mr and Mrs Gibney

Location:

The lands comprising the application site are located in the countryside between Seaforde and The Spa, and close to Drumnakelly Landfill site, in an Area of Constraint on Mineral Developments, as identified in the Ards and Down Area Plan 2015.

This site is low lying, located behind several dwellings, whereby this area is predominantly rural in character.

Site Characteristics & Area Characteristics:

The site outlined in red comprises a large roughly rectangular shaped plot of land, comprising a field at present. This field is located to the rear of the existing dwellings of no.83, 85, 87 and 89, and is accessed via an existing laneway between no.89 and 91. (No.s 83-91 front and open onto the Demesne Road.

This site is low lying being bounded by no.83-89 to the west, the grounds of the landfill to the east, agricultural building and yard to the north, and fields to the south. It is noted the applicants registered home address is no.83 which includes a detached dwelling (single storey in form, with roof lights, and large shed behind.

Site history

A history search has been carried out for the site and surrounds, including farm maps, whereby no relevant history since the publication of the current policy (PPS21) was observed.

Representations

No representations in opposition to the proposal have been received to date (01-12-17).

Having account the nature of this application and extent of the red line, neighbour notification was undertaken with a number of properties along the Demesne Road in Sept 2017, while the application was also advertised in the local press in Sept 2017.

Consultees

Taking into account the location and constraints of the site and nature of this proposal consultation was carried out with Transport NI, NI Water, Shared Environmental Services, NIEA, Environmental Health, and DAERA, as part of this application.

It is not considered necessary to seek the comments from any other body to determine this application.

Environmental Health recommend that a dwelling should be sited a minimum of 75m from farm buildings, due to potential noise, odour and pests from nearby farms. (It is noted the siting indicated is adjacent to a farm building not within the control/ownership of the applicant and which was observed as housing cattle during a site visit in Oct).

As such it is considered the comments from Environmental Health need to be applied in this instance and an appropriate separation distance of at least 75m provided. It is noted the red line of this application permits the applicant relocate the dwelling to comply with this requirement.

The remaining consultees offer no objections in principle.

Policy- RDS, Ards and Down Area Plan 2015, SPPS, PPS3, PPS15, PPS21, and associated guidance.

As stated above the site is located in the countryside whereby Policy PPS21 and the recently published SPPS apply.

One of the policies retained by the recently published SPPS is PPS21, whereby it is considered there is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21.

As such it is considered PPS21 remains the applicable policy context to consider the proposed development under.

In a statement to the Assembly on 1st June 2010, the Minister of the Environment indicated that the policies in this final version of PPS21 should be accorded substantial weight in the determination of any planning application received after 16 March 2006.

PPS21 sets out the planning policies for development in the countryside (any land lying outside of development limits as identified in development plans).

Policy CTY1 states there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

Based on the information submitted this application is for the development of a farm dwelling to be considered under policy CTY10 of PPS21.

This is a Full application for 1 dwelling, whereby a P1 form, P1C form, farm map, site location plan, site plan and detailed plans have been submitted.

The information submitted indicates the applicant (Mr B and Mrs A Gibney) live at no.83 Demesne Road which adjoins the application site. The owner of the farm business is Mr B Gibney of the same address, whereby the P1C form advises the farm business was established in 2005, a single farm payment is claimed for, they have a DARD Agricultural Business Number (613000), and that the date of allocation was 2005.

DAERA were consulted with this information, who have confirmed the farm business id identified has been in existence for more than 6years, the business entitlements were leased out in 2017.

As advised above a history search has been carried out for the site and surrounds including farm map provided, whereby no relevant planning history associated with this business was observed since the publication of this policy.

In light of the above it is considered the farm business is both active and established for the requisite period, whereby the Planning Authority has no information or evidence to suggest any dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of the application. As such it is considered the proposal complies with points A and B of policy CTY10.

With regards to Point C of policy CTY10, the site plan provided indicates the dwelling will be located in the North East corner of the field outlined in red.

The applicants home address of no.83 adjoins the site outlined in red, being located to the south west of this same field. It is noted there is a large building to the rear of no.83, which is used for agricultural purposes, which is subdivided and includes several sections. There is a working farm yard to the south side and rear of this shed. It is noted there are 3 separate entrances to no.83 and associated farm, with a driveway to the north end of the dwelling at no.83, which serves the dwelling, with 2 additional entrances to the south side of the dwelling, one of which provides access to the rear of the dwelling, and the other provides access to the farm yard.

The portion of the field to the rear of this farm building and yard is low lying and was observed as being very wet during the site visit. The applicant advised during the site visit this part of the site is a bog, being low lying and adjacent to the watercourse.

As advised above the siting indicated is located to the northern end of this field and away from the existing dwelling and agricultural building of no.83, although is sited adjacent to another agricultural shed and yard area. The agent clarified the applicant does not own this yard or shed. It was also noted there is a smaller shed within the site outlined in red and to the rear of 85-87.

The site plan indicates the proposed dwelling will access via an existing laneway between no.89 and 91.

While it is noted the siting indicated is not immediately adjacent to the existing dwelling and buildings on the farm, it is only approx 100m from these buildings, and only approx 50m from the smaller shed.

The proposed siting indicated does not directly visually link or cluster with the existing buildings on the farm however having account the specific site characteristics it is considered the siting could be considered acceptable if there are no other issues.

These specific site characteristics include the fact the access indicated between no.89 and 91 is the only practical option to gain access to the site, on lands within the applicants control/ownership, as the farm is a working farm with various machinery and cattle being moved. It is not considered practical or reasonable to request the applicant to access through this existing working farm yard area, having account the spacing available, when there is another existing laneway to the far end of this field.

The siting indicated is also adjacent to this access, thus the ancillary works associated with the dwelling will be kept to a minimum.

While the sited outlined in red covers the entire field the extent of the working farm yard and lowest lying portion of the site, adjacent to the watercourse reduces the potential area to satisfactorily locate a dwelling. It is also noted the siting indicated is located away from any existing dwelling thus will not impact on the amenity of these.

It is also noted the site is low lying, with a back drop of a sizeable hill, thus no concerns are expressed regarding compliance with policies CTY13 and CTY14. It is also noted a septic tank is proposed to serve this dwelling, whereby there are sufficient lands to accommodate both this tank and associated soak-aways.

However, as outlined above the Environmental Health Dept recommend that a dwelling should be sited a minimum of 75m from farm buildings, due to potential noise, odour and pests from nearby farms, and this is certainly possible within the red line supplied.

As such, an email was issued to the agent on 26th Oct, advising of the above, and that an amended siting was required.

Further information was received by the agent on 16th Nov, making reference to another similar development approved elsewhere, and raising several points regarding the nature of the applicants business and circumstances. No amended siting was provided or offered.

This supporting information was discussed in detail, whereby it was considered the comments from Environmental Health remain applicable and cannot be set aside. As such refusal is recommended on this basis.

It was also noted the dwelling can be relocated within the red line of the current application to meet the requirements of Environmental Health, whereby no justified grounds are considered to have been provided to set aside these comments. As the dwelling is required to be relocated, it has also been considered there are no site specific circumstances to permit a dwelling on the siting indicated and as such now also fails policy CTY10, as the dwelling is not sited to cluster or visually link with the established buildings on the farm.

As such Refusal is now recommended

Recommendation: Refusal**Reasons:**

- The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.
- The dwelling is sited within 75m of a farm building, outside the applicants control/ownership, which will cause unacceptable public health nuisances from odour, noise and pests.

Re: LA07/2017/1394/F – DWELLING AND GARAGE OF FARM FOR MR & MRS B GIBNEY ON LANDS 80m EAST OF 89, DEMENSE ROAD, EDENDARIFF

This application is on the 10th January 2018 Council List with an opinion to refuse. I submit the following information in support of this proposal.

1. THE SITE AND PROPOSAL

This application is sited within a 0.67ha field to the rear of the applicant's farmhouse and yard. It proposes a modest 1,370 sq ft / 127m² render finished bungalow standing 6.5m to the ridge. 50m to its rear will be a 34.5m² garage finished in matching render and standing 5.2m to the ridge. It is located 50m to the rear of a line of 5 frontage dwellings. As it is at a lower level it will not be seen from Edendariff Road. (See Site Plan, Elevations and Floor Plans)

The proposal is for the Applicant's 42 year old son, Thomas, who has always worked full time in his Father's farm business. Thomas, who lives with his parents, has a partner and child and would like a house of his own. The existing farmyard access is sub-standard but the recent purchase of access splays to the northern lane has opened up the prospect of a CTY10 dwelling on the farm.

2. CONSULTATIONS

- Transport NI – No objection
- NI Water – No objection
- Shared Environmental Services – No objection
- DAERA – Has had a Business ID for more than 6 years. Has claimed SFP for more than 6 years
- DFI Rivers – The southern boundary of the site is adjacent to an undesignated watercourse. It does not lie within a 1- 100 year fluvial flood plain. The site layout shows a 5m maintenance strip
- Environmental Health – No objections in principle. INFORMATIVE – Farms have the potential to cause nuisance from odour, noise and pests so the Department recommends a separation distance of 75m. The applicant should be made aware that the occupants of the proposed dwelling may experience noise, odour and pests from the nearby farm

3. BACKGROUND

Mr Gibney grew up on a farm and since leaving school has worked solely in farming. He was the second son of a farmer and when his father died inherited no land, only money which he used to buy 83, Demense Road. He has lived at No.83 since 1975 from where he has carried on his agricultural contractor's business. Brendan has held a DARD Business ID since 1975 and was in receipt of Farm Subsidies. Since 2005 he has been in receipt of Single Farm Payments.

His circumstances are unusual in that since the 1980's he has annually taken some 100 acres in conacre, but his sole ownership is the 0.67ha field to the rear of his farmhouse and yard. For 35 years he rented this field but only managed to purchase it in 2010 when a neighbouring farmer retired. This afforded the opportunity for a CTY10 dwelling but investigation showed his existing farm access was sub-standard. To progress the matter he had to buy sight splays for his northern lane.

4. FARMING ACTIVITY

Since 1975 Mr Gibney has sub-contracted to the local farming community, normally covering a 15mile radius from his house i.e. as far away as Ballykilbegs, Dunmore, and Castlewellan, but has

also had clients in Carryduff and Leitrim and Ballyward. He also has his own herd which currently numbers a bull, 17 cattle with 13 sucklers and 6 calves. These are housed in a byre in the yard to the rear of No.83. (See Photo 1)



Photo 1 – Cattle in Byre

At the edge of the yard he has 30 black bales with another 100 bales stored on rented land at Drumanaghan Road and a further 70 bales stored at Demense Road on the outskirts of Seaforde. Within his yard he has a workshop where he maintains and services his assorted farm machinery. (See Photos 2 & 3)



Photo 2 - Machinery Workshop



Photo 3 – Machinery Workshop

Agricultural contracting work is seasonal with the main roles varying from early spring to late autumn. In spring the main tasks are spreading slurry, hedging, ploughing, spraying and sowing. Autumn is the time for harvesting, baling, cutting silage, and again spreading slurry and cutting hedges. Over the years Mr Gibney has assembled a large array of farm machinery (See Appendix 1 which lists 50 items of major agricultural machinery) sufficient to satisfy his work needs throughout the agricultural year. There are insufficient sheds to house all his machinery and the vast majority of it is stored in the open. (See Photos 4, 5, & 6)



Photo 4 - Open Air Storage



Photo 5 – Open Air Storage



Photo 6 – Open Air Storage

Due to experience he knows which equipment he will need in the short term and these are stored beside his main farm sheds with less likely to be needed machinery stored in his overspill yard. (See Photos 7, 8 & 9)



Photo 7 – Overspill Yard



Photo 8 – Overspill Yard



Photo 9 – Overspill Yard

5. USE OF HIS OWN 0.67 Ha FIELD

The field lies to the rear of residential properties 83-91 fronting onto Demense Road. Along its western boundary there is a 5m wide hard-cored lane, running from the farmyard in the south for 105m. At the north there is a laneway link between 81 & 91 to Demense Road. The recent purchase of access splays made this a viable access for the proposed new dwelling.

The laneway is the driest part of the field and is used to park agricultural machinery. Some 20m from its north point is a small shed used for storage to which the applicant has added 2 storage containers. This is the basis of his overspill yard, although in practice the entire lane is used for storage.

The field drops down from the laneway to the east boundary close to which is an undesignated stream. In wet weather the centre and east of the field become quite boggy particularly at the south east corner where there used to be a lint hole. (See attached Photo 10 which was taken after heavy rain) In Mr Gibney's view the field is too wet for a satisfactory housing site.

When the field was purchased in 2010 it was crossed by 3 soakaways serving Nos.89, 87 & 85. These soakaways entail pollution and smell which is not compatible with the new dwelling's siting as suggested by the Case Officer. This suggested siting would also locate the dwelling in the middle of open machinery storage.

Mr Gibney chose the new house siting at the north-east corner of the field where an outcrop of rock ensured there would be no flooding or dampness problems. To him this was a critical point. Also this siting would be convenient to the access link and would not disrupt the established system of open storage along the lane.

6. CONCERNS RE SEPARATION DISTANCE FROM NEIGHBOUR'S BARN

6. 1 The Environmental Health Consultation Reply actually states **no objection in principle** but advises an informative that due to possible odour, noise and pest nuisances it is best to site a minimum of 75m from farm buildings.

In this particular case his son Thomas Gibney, who is a full- time farmer, will occupy the dwelling. Thomas his partner and child at present live with his parents at No.83 which is only 4m from his father's farmyard byres. The proposed dwelling would be 25m from the neighbouring farmer's barn. The layout design indicates a garage sited between the new dwelling and the barn – this would dilute E.H. concerns.

6. 2 In the vicinity, No.91 Demense Road, occupied by a non-farmer, has an agricultural barn built 14m to its rear.

6. 3 On 3rd November 2017, after hearing Council's concerns, Mr Gibney travelled to Mr Shields of 31 Broomhill Road to undertake silage cutting. Mr Shields informed him that the infill dwelling (Ref LA07/2016/1393/F) being constructed within 10m of his very large cow byre was applied for after a positive site meeting with Mr Antony McKay. I can vouch that this in fact was the case as the applicant employed me to walk the site and advise him the day before his site meeting with Mr McKay. As photos 11 and 12 show, Mr Shield's byres are very large and will dwarf the new infill dwelling sited only 10m away. Mr Gibney is concerned that in his case Council have not afforded him equal and fair treatment.



Photo 11 – Byre within 10m of new dwelling



Photo 12 – Byre and new dwelling under construction

CONCLUSION

Mr Gibney has been a full-time farmer for over 40 years and fully meets the DAERA criteria. His proposal for a house on the farm is for his son Thomas who is also a full-time farmer working with him. Prior to applying Mr Gibney had to purchase sight splays onto Demense Road.

His sole ownership is the 0.67ha field to the rear of his farmhouse and yard. This field is low lying and can become boggy in wet weather and is also crossed by 3 soakaways. Mr Gibney has chosen to site the dwelling in the north east corner where an underlying rock outcrop will ensure no wet weather flooding. It will also mean his farm lane will be free for overspill storage of his machinery.

Councillors will note that the E.H. reply was no objections in principle. A Consultation Reply provides advice to the Planning Authority and it is not mandatory that this advice is implemented. As there are no public safety issues involved perhaps Mr Gibney could be afforded some discretion.

I trust Council will take full account of the points raised.

APPENDIX 1 – LIST OF AGRICULTURAL MACHINERY

| | |
|------------------------|------------------------------------|
| 7 Tractors | 1 self-propelled silage harvester |
| 1 Round Baler | 1 Umbilical System Slurry Spreader |
| 1 Round Bale Wrapper | 1 digger |
| 5 Silage Mowers | 1 dumper |
| 4 Silage Trailers | 2 Reversible Ploughs |
| 1 Low Loader | 1 Cattle Trailer |
| 1 Silage Rake | 1 Crop Sprayer |
| 1 Silage Kicker | 1 Diesel Bowser |
| 2 Hedge Cutters | 3 Slurry Tankers |
| 2 Loading Shovels | 2 Dung Spreaders |
| 2 Fertiliser Spreaders | 2 Portable Cattle Crushes |
| 1 Pick-up Wagon | 2 Compressors |
| 2 Slurry Mixers | 2 Concrete Mixers |

Structural Report
Siting of Dwelling & Garage
80m East of 89 Demesne Rd, Seaforde
For
Brendan Gibney



SAVAGE ASSOCIATES
STRUCTURAL/CIVIL ENGINEERS

Iveagh Court, 2a Railway Street, Newcastle, Co Down BT33 0AL
tel: 028 4372 6162 fax: 028 4372 4248
email: mail@pdsavage.co.uk

Date of Report: February 2018

Project Ref: 18/719

Savage Associates
Consulting Structural/Civil Engineers

Mr Brendan Gibney
83 Demesne Road
Seaforde

RE: Siting of Dwelling & Garage 80m East of 89 Demesne Rd, Seaforde

On your instructions an inspection was carried out on the above site on 13th February 2018.

Purpose of Inspection

The purpose of the inspection was to investigate the ground conditions in relation to a proposed new dwelling and garage.

Inspection

The site is situated behind the rear gardens of No. 85 - 89 Demesne Road and by agricultural sheds at the rear of No. 83 ref PH1.

The northern end of the site is bounded by a neighbouring shed and the eastern side is bounded by fields and rough ground beyond which rises at the rear to the Drumnakelly Landfill Site. The southern side of the site is bounded by a boggy area containing a stream and a linthole, ref PH2 & PH3.

The ground at the southern side of the site is very wet and difficult to traverse, ref PH4.

I understand that the dwellings have septic tanks which drain into the site and there had been previous issues with foul effluent entering the site from the septic tanks.

The stream and linthole show signs of pollution, ref PH5 coming from the higher ground to the rear of the site. I understand that contact has been made with the Environmental Agency to investigate.

The proposed site rises to the north boundary where rock outcrop is visible and the ground conditions are better and would not be affected by any pollutants from the stream nor effluent from septic tanks, ref PH6.

Results of inspection

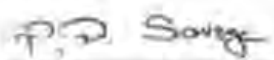
- The site is very wet at the low lying areas with boggy ground, lintholes and a stream which contains pollutants, the nature of which have not yet been verified.
- The location of the site in the area proposed by Planning is unsuitable for building due to the boggy nature of the ground which would require to be piled. The curtilage of the site would require to be infilled to elevate the roads and garden area by at least 1.5 metres in order to prevent flooding of the dwelling and gardens. The difficulty with filling over peaty ground is the settlement long term, due to the weight of the material eg Rathkeltair House and adjacent Shopping Centre. The problem with infilling the site will exacerbate flooding elsewhere and neighbouring land. The cost of the piling, infilling and associated works would be prohibitively expensive, probably in the region of £50 to £70k.
- Climate change would increase the flooding risk.
- The historic location of septic tanks and soakaways at the rear of Nos. 85, 87, 89, and 91 Demesne Road would naturally soak into the low lying area of the southern half of the site.
- The proposed location of the house on the northern corner is the driest part of the site and contains a rocky outcrop which would provide firm foundations for the house and garage allowing the drainage to drain away from the building.

Conclusion

The low lying part of the site is unsuitable for building due to flooding, boggy ground, requiring piling and extensive infilling resulting in prohibitive costs.

We would recommend that the proposed dwelling and garage should be sited on the dry, rocky outcrop of raised ground on the north east corner as proposed on the adjoining map.

This siting will ensure that the dwelling is not affected by flooding, rising water levels and pollution from outside sources and will not require extensive infilling nor making up of levels.



PD Savage BSc CEng MStructE

Appendix

Photographs



SAVAGE ASSOCIATES
STRUCTURAL/CIVIL ENGINEERS



PH 1



PH 2



PH 3



PH 4



PH 5



PH 6

| | | | | |
|------------------------|---|--------------------|----------------------|--|
| ITEM NO | 6 | | | |
| APPLIC NO | LA07/2017/0290/O | Outline | DATE VALID | 24/02/2017 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | Mr & Mrs McMurray 73 Station Road Saintfield BT24 7EN | | AGENT | Hall Black Douglas 152 Albertbridge Road Belfast BT5 4GS |
| LOCATION | 110 m south of No 52 Carsonstown Road Saintfield BT24 7EB | | | |
| PROPOSAL | Single Storey 200sqm house with Outbuilding - garage and stores | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 0 | 1 | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active and has been established for at least six years.

- 2 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Carsonstown Road.

- 3 The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, create a ribbon of development which would result in damage to the rural character and would therefore result in a detrimental change to the rural character of the countryside.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

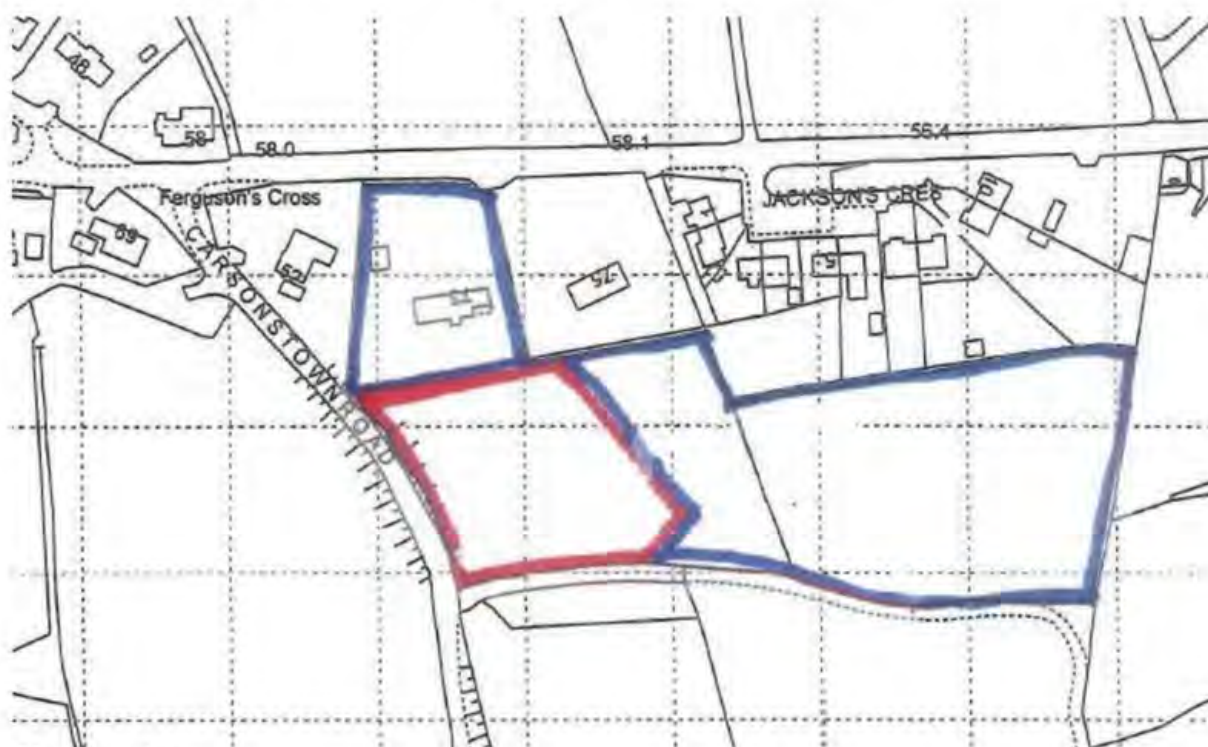
**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0290/O

Date Received: 24.02.2017

Proposal: The application is for outline planning permission for a single Storey 200sqm house with Outbuilding - garage and stores

Location: The application site is located outside the settlements in the open countryside as designated in the Ards and Down Area Plan 2015. The site lies approx. 1.5miles east of Saintfield Village.



Site location

**Site Characteristics & Area Characteristics:**

The application site is located just off the Carsonstown Road close to the junction with Station Road and consists of a site that is heavily wooded with trees. The adjacent field to the east is also covered with trees. The plot is roughly rectangular in shape and is located to the rear of No 73 Station Road. There is a laneway to the south of the plot. The western boundary is along the roadside and consists of a high well maintained hedge.





21/04/2017

Site History:

LA07/2016/0680/O 110 Metres South Of 52 Carsonstown Road, Saintfield, Single Storey House With Outbuilding, Garage And Stores Application Withdrawn 03.01.2017

R/1984/0851 Adj To 75 Station Road, Saintfield. Dwelling Permission Granted

R/1990/0887 52 Carsonstown Road Saintfield Extension To Dwelling Permission Granted

R/1981/0627 60 Carsonstown Road, Saintfield Dwelling Permission Refused

R/1987/0422 Carsonstown Road Carsonstown Saintfield Dwelling Permission Refused

Planning Policies & Material Considerations:

The application site is located outside the settlements in the open countryside as designated in the Ards and Down Area Plan 2015 and as such the SPPS is the relevant policy document, which is read in conjunction with PPS 3 and PPS 21.

Consultations:

NI water – No objections
Transport NI – No objections subject to conditions
NIEA Water management – no objections
NIEA NED – No objections subject to conditions

Objections & Representations

In line with statutory requirements three neighbours have been notified on 13.03.2017. The application was advertised in the Mourne Observer and the Down Recorder on 15.03.2017.

Consideration and Assessment:

The Strategic Planning Policy Statement for Northern Ireland 'Planning and Sustainable Development' (SPPS) which came into effect in September 2015 is material to all decisions on individual planning applications and appeals. Other than an update in the definition of what constitutes "*agricultural activity*" there is no conflict or change in policy direction between its provisions and those of Planning Policy Statement 21: '*Sustainable Development in the Countryside*' (PPS 21) regarding dwellings on farms. The SPPS is therefore most recent expression of policy and until a new plan strategy for the Council area has been adopted, thus the policies contained in PPS 21 are material to the assessment of this application.

PPS 21 - Sustainable Development in the Countryside

Policy CTY 1 states that a range of types of development are acceptable in principle in the countryside. Planning permission will be granted for an individual dwelling house in the countryside in the following cases which are listed, a dwelling on a farm in accordance with policy CTY 10 is one such instance. Integration and design of buildings in the Countryside CTY 13 and Rural character CTY 14, CTY 16 will also be considered.

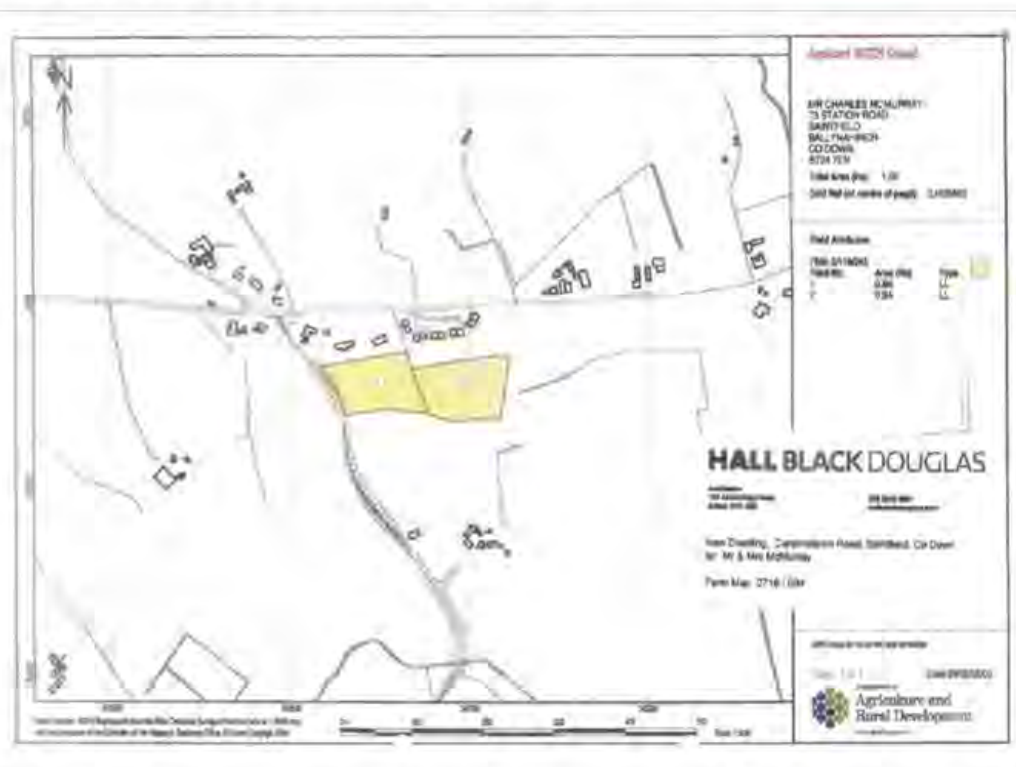
Policy CTY 10 - Dwellings on farms

Planning permission will be granted for a dwelling on a farm where all of the criteria can be met. As part of this application a P1, P1C form and farm map, site location plan and site plan have been submitted.

Criterion (a) of Policy CTY10 requires that the farm business is currently active and that it has been established for at least 6 years. Paragraph 5.38 of the Justification

and Amplification to Policy CTY10 states that new houses on farms will not be acceptable unless the existing farming business is both established and active. It goes on to state that the applicant will therefore be required to provide the farm's (DARD (previously known)) business ID number along with other evidence to prove active farming over the required period.

A farm map was submitted with the application showing the total area of land as 1.8ha. This includes the site and the adjacent field.



The applicant states on the P1 form that the land is currently in woodland under the farm woodland premium scheme since 1998/99.

"The farm woodland behind 73 Station Road, Saintfield was planted in the season 1998/99 as part of the Farm Woodland Premium Scheme (FWPS) which has a life span of 30 years. The scheme was introduced by Department of Agriculture, Forest Service in September 1994 following a Government review of forestry incentives. This scheme was designed to encourage the creation of new woodlands on farms, both to enhance the environment and as a productive alternative land use. The FWPS offers farms an annual payment for converting agricultural land to woodland for a period of 15 years, and the farm will be expected to receive income in the second 15 year period of the Scheme from thinning's as the result of good woodland management. As owners of the woodland we have managed the site since planting, removing damaged trees and thinning were necessary during the first 15 year period. As the trees mature we now undertake a greater level of activity removing damaged branches and thinning out trees throughout the site. The timber harvested by us provides income and fuel for the farm in the second period of the Scheme."

Department of Agriculture, Environment and Rural Affairs (DAERA) have been consulted regarding the proposal and the applicant has had a business ID number for more than 6 years, however, single farm payment or similar has not been claimed within the last 6 years. At the time of the previous withdrawn application the applicant had been receiving payment in relation to the woodland scheme.

Taking into account the information submitted by the agent on behalf of the applicant, the 15 years of payments from the Farm Woodland Premium Scheme would have ended 2013/2014. Thus the application was submitted in Feb 2017, so there have been no payments received since the scheme ended. The policy, however, allows for other evidence to prove active farming over the required period I requested other information from the agent to demonstrate that the applicant's farm business is both active and established for the required period. The agent submitted the same explanation regarding the scheme, but no further evidence was submitted.

Part (b) requires that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. Having undertaken a history search of the land owned on the submitted DARD farm maps I am satisfied that there does not appear to be any evidence of selling off any dwellings or development opportunities on the land after 25 November 2008 under policy

Criterion (c) of CTY 10 requires the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. It goes on to say that "exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either demonstrable health and safety reasons; or verifiable plans to expand the farm business at the existing building group(s)".

CTY10.

The registered address for the farm business is 73 Station Road, Saintfield, which consists of a part single storey part two storey dwelling and garage, which is located directly to the north of the site. The only building therefore is the detached garage. The policy requires that the proposed dwelling be sited beside 'an established group of buildings' on the farm'. In addition the following policies need to be taken into account. The agent has provided an indicative site layout (see below), it is considered that the proposed siting does not comply with the visual linkage or clustering requirement of CTY10 (c)

Policy CTY 14 of PPS 21 'Rural Character' states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It sets out five circumstances where a new building would be unacceptable. Circumstance (d) is that it creates or adds to a ribbon of development (see CTY 8). Since the proposed development does not meet the requirements of Policy CTY 8 it follows that it would also not meet the tests of CTY 14. The proposal would be contrary to CTY 14 due to the creation of a ribbon of development and would thus result in a detrimental change to the rural character of the countryside.

Policy CTY 16 - Sewerage

The proposal will be served by a septic tank and soakaway system within the red line.

Recommendation:

Refusal

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active and has been established for at least six years.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Carsonstown Road.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, create a ribbon of development which would result in damage to the rural character and would therefore result in a detrimental change to the rural character of the countryside.

Case Officer Signature

Date

Appointed Officer Signature

Date

McMurray Planning Application History
110m south of no. 52 Carsonstown Road.

We are requesting that the Committee defer the recommendation to refuse until a site meeting be held to look at the issues raised.

The process of this application has been frustrating and we believe the Policies to be wrongly interpreted in the recommendation.

An initial application was lodged 20 May 2016, ref LA07/2016/07680/O - **Diagram 1**.

Following discussions, a site meetings was held with the Planning Officer and TransportNI on 24 Aug 2016.

Three issues were raised: Farm Land use, Access and Siting.

1. *The farm woodland behind 73 Station Road, Saintfield was planted in the season 1998/99 as part of the Farm Woodland Premium Scheme (FWPS) which has a life span of 30 years. The FWPS offers farms an annual payment for converting agricultural land to woodland for a period of 15 years, and the farm will be expected to receive income in the second 15 year period of the Scheme from thinnings as the result of good woodland management. As owners of the woodland we have managed the site since planting, removing damaged trees and thinning were necessary during the first 15 year period. As the trees mature we now undertake a greater level of activity removing damaged branches and thinning out trees throughout the site. There has not been enough timber to date for commercial activity.*

No further issue in this respect was raised by Planning Service.

2. Access. Our client agreed at the site meeting to move access point some 10m north on Carsontown Road. TranspotNI was happy with this.

3. Siting

Fionnuala Murray advised that under PPS 21 CTY 10 Dwellings on Farms the only site considered acceptable would be directly behind no 73 Station Road (the registered address of the farm) in order to group with the existing farm buildings. Given the tight drawing of the red line in the application, our client agreed to withdraw the application and resubmit with a revised siting behind no 73.

This appeared to be the only apparent remaining issue, and the initial application was withdrawn by our client 23 December 2016 in good faith.

The revised application was made 24 February 2017 LA07/2017/0290/O - **Diagram 2**. When contact was made with the Planning office, we were advised that this application was now to be handled by a new Planning Officer.

Following consultations, Planning service advised 6th September 2017 there were three issues with the new application:

1. Evidence that the farm is established and active - policy CTY 10.

The farm woodland behind 73 Station Road, Saintfield was planted in the season 1998/99 as part of the Farm Woodland Premium Scheme (FWPS) which has a life span of 30 years. From the time lapse between the applications, DAERA changed their advice as the initial 15 year payment period had moved on into the second 15 year period of timber production. Our client was asked to prove the farm is active - we responded that it was self evident that the trees were now growing and being managed - but that in the early second period of harvesting there was no commercial activity that could be evidenced - the limited amount of timber being used for firewood.

2. The application would be contrary to CTY 8 in that the site would create a ribbon of development along Carsonstown Road (this is due that both No's 52 and 73 have frontages onto Carsonstown Road.

3. It would also be contrary to CTY 14 in that due to the creation of a ribbon of development and would thus result in a detrimental change to the rural character of the countryside.

73 does not have a frontage onto Carsonstown Road - it's site tapers towards but does not touch the road and certainly could not be described as a frontage.

The original application site visit agreed an acceptable access point off Carsonstown Road. This is the access indicated in the second application - ribbon development was not raised as an issue in the first application.

Our client's intention in both applications is to create a dwelling hidden in the trees. We would have preferred the original siting further away from Carsonstown Road - and only moved the siting closer on Planning Service advice. However the second application still shows the proposed dwelling separated from Carsonstown Road by bank of trees and the existing rural hedge. There is no intention to form a frontage to Carsonstown Road. We attach a photograph taken 29.03.2018 of the site from Carsonstown Road illustrating that a house will not be visible - **Diagram 3**

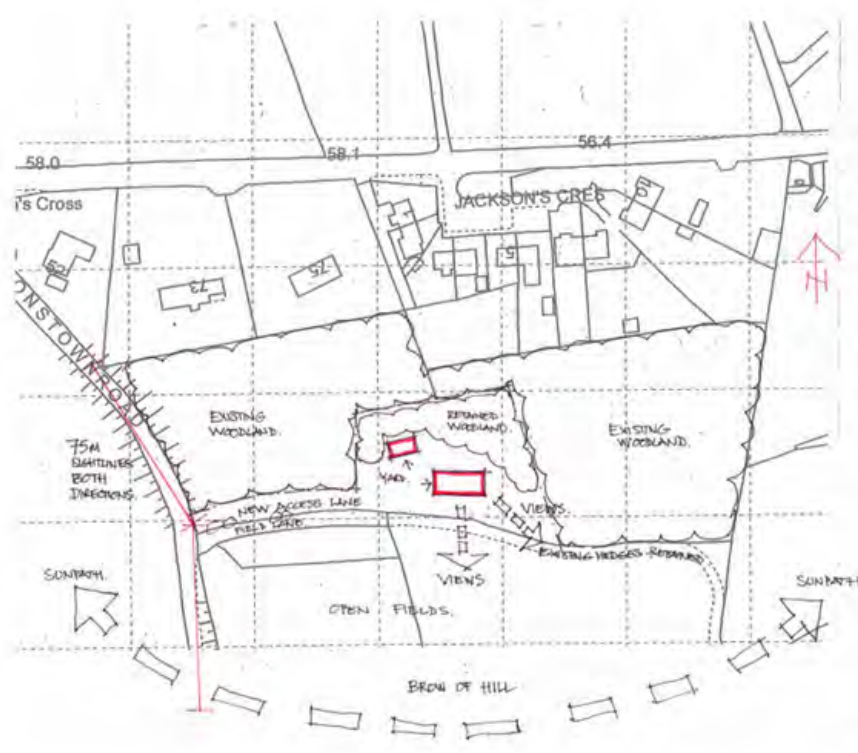
Our client has planted a significant area of trees using the Farm Woodland Premium Scheme in an area lacking tree cover - **Diagram 4**. The NIEA consultation on the Biodiversity Report states that the planting has the potential to develop into a significant habitat.

None of the quoted Policy issues were raised during the first application process. Those that were raised have been addressed. Indeed a late request for a Biodiversity survey and report was addressed - with a consultation reply 17 Jan 2018 stating that there were no concerns and standard conditions would apply.

We have responded to Planning Service several times on the CTY 8, 10 and 14 issues raised, each time requesting a site visit whereby the context could be clearly appreciated. No meeting has been granted.

We are frustrated by the lack of consistency between the approach taken by Planning Service in the two applications, when the second application was made in good faith believing that it addressed the Policy issues to the satisfaction of the first Planning Officer.

We therefore request a deferral today allowing a site visit before determination.



- One acre site chosen to nestle into the tree belt
- Access point on Carnstown Road offers 75m sightline in both directions.
- Laneway running along southern boundary to site places house appropriate distance from roadway.
- House to be 200sqm single storey dwelling with outbuilding double garage and stores.
- House faces south into rising field with views to south and south east.
- Dwelling not visible from any surrounding public roads.
- Site retains woodland setting with all existing hedges retained

HALL BLACK DOUGLAS

ARCHITECTS
 100 St Albans Road, St Albans, Co. Down
 028 3010000
 info@hallblackdouglas.com

New Dwelling, Carnstown Road, St Albans, Co. Down
 by Mr & Mrs McMurray
 Design Statement: 07/16/005

Diagram 1 Initial Application



Diagram 2 Current Application



Diagram 3 Site hedge and trees - view north on Carsonstown Road

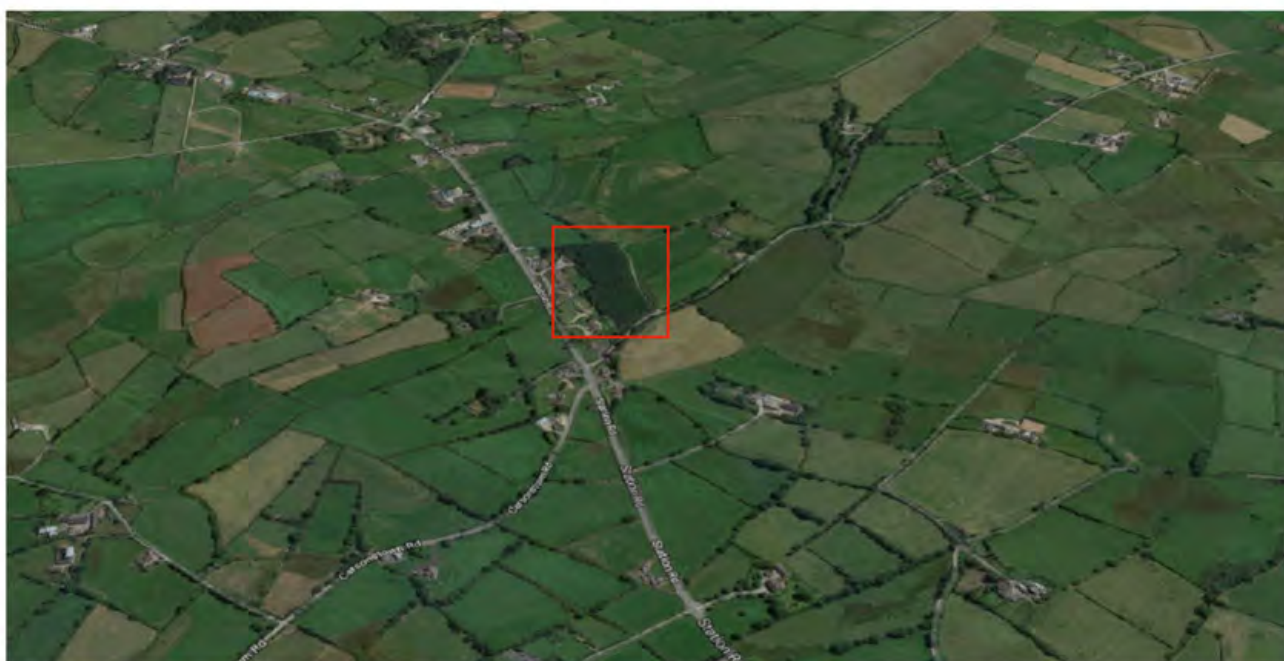


Diagram 4 Tree planted site in context

| | | | | |
|------------------------|--|--------------------|----------------------|---|
| ITEM NO | 7 | | | |
| APPLIC NO | LA07/2017/0426/F | Full | DATE VALID | 13/03/2017 |
| COUNCIL OPINION | APPROVAL | | | |
| APPLICANT | Norman McBriar & Son 33A Main Street Saintfield BT24 7AB | | AGENT | The Bowsie Partnership 3 Lower Clay Road Toye Downpatrick BT30 9PL |
| LOCATION | 37 Saintfield Mill Saintfield | | | |
| PROPOSAL | Proposed change of use from ground floor commercial unit to funeral home | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 6 | 0 | 1 | 0 |
| | | | Addresses | Signatures |
| | | | 15 | 17 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin
**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0426/F

Date Received: 13th March 2017

Proposal: Proposed change of use from ground floor commercial unit to funeral home

Location: 37 Saintfield Mill, Saintfield

Site Characteristics & Area Characteristics:



The site is located at No 37 Saintfield Mill which is part of a large terraced block with three storey elevation and four storey rear elevation. This terrace is comprised of retail / commercial space to ground floor level and residential units to first and second floor. This terrace is sited in a mixed residential and commercial area with mainly two-storey semi-detached and terraced housing with an off-street parking area at lower level to the rear.

This is a large rectangular shaped building with a pitched roof and large glazing units to shop units on ground floor front elevation. The building frontage is set adjoining the public footpath adjacent to the Lisburn Road and is near a busy round-a-bout where Main Street (the main thoroughfare through the town), Ballynahinch Road and Lisburn Roads meet.

Characteristics of Area:

The site is located on the edge of Saintfield town centre but within the settlement limit of the town. This site is just outside an Area of Archaeological Potential and Conservation Area. It is located alongside a protected route and near the Old Rectory Local Landscape Policy Area as stated in the Ards and Down Area Plan 2015 and shown on Map No.03/015a.

Site History:

LA07/2017/0398/A 37 Saintfield Mill Saintfield
Shop Sign, hand painted on flat fascia

LA07/2016/0616/F 37 Saintfield Mill Saintfield
Proposed change of use from storage unit to veterinary surgery with training rooms, creation of a shop front, associated site works and car parking.
Application Withdrawn

LA07/2016/0560/A 73 Saintfield Mill Saintfield
Advertisement consent to erect 3 No sign
Application withdrawn

R/2013/0141/F 37 Saintfield Mill Saintfield
Change of use from vacant shop to 1No office
Permission Granted 24.10.13

R/2013/0142/F 35 and 37 Saintfield Mill Saintfield
Change of use from 2No shops to 3No Offices
Permission granted 24.07.13

R/2005/1390/F Former Saintfield Yarns, Mains Street / Lisburn Road Saintfield
Proposed residential development (118 Dwelling – apartments, townhouses and detached), three retail units and associated landscaping / road improvements.
Permission Granted 22.11.06

Planning Policies & Material Considerations:

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS3, in addition, to the history and any other material consideration.

The application was advertised in the local press on 05.04.17

Consultations:

In assessment of the proposal consultations were carried out with Transport NI, NIEA Water Management Unit and NIW. No objections have been received

The following neighbours were notified of the proposal 28.03.17 and 09.05.17

- Nos 1-10 Fairview Saintfield
- Nos 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 13, 21, 22, 23, 24, 25, 26, 27,28 , 29, 30 and 31 Lisburn Road Saintfield
- Nos 1, 2, 3, 4, 5, 6, 7, 8, 25, 27, 29 and 31 Mill View
- Nos 1 – 11 Wicket Mews Saintfield
- Nos 59-61 and 63 Mains Street Saintfield
-

Objections & Representations

7 objections have been received in addition to a petition of objection containing 17 signatures from 15 addresses. These are summarised below

22 Mill Road, Saintfield – objects to the proposal on the grounds that it is not in keeping with the area, the proposal will cause parking issues and will be an eyesore.

2 Millview, Saintfield – object to the proposal on the grounds that they do not wish to live above a funeral parlour, the proposal will affect the value of their property, they will be negative parking implications, the business would disturb them through the night.

13 Lisburn Road, Mill Road, Saintfield – object on the grounds of the traffic and parking generation, failure to enhance the area generally.

7 Lisburn Road, Mill Road, Saintfield – object on basis that this is an inappropriate location for a funeral home.

A petition with 17 signatures was received objecting to the proposal on the following grounds

- Residents do not wish to live above a funeral parlour
- Concerns regarding the capacity for preparation and storage of bodies
- Safety concerns regarding the chemicals used in preparation of bodies and the disposal of such chemicals
- Object to disposal bins being located properties
- Concerns about the level of noise from refrigerators etc.
- Concerns regarding the potential of the business to operate on a 24hr basis and thereby cause disruption
- Negative parking implications
- Concerns regarding how the proposal will affect the daily routines of residents
- Proposal will detract from current pleasant appearance and have negative visual impact on the character of the area.

Consideration and Assessment:

The proposal seeks full planning permission for the change of use of ground floor commercial unit to funeral home.

The proposal will involve some minor changes to the front elevation with the introduction of a new door opening in the existing shop front. To the rear, the existing vehicular access at lower ground level, is to be increased in size. The internal arrangement of the unit at lower and ground floor level will be altered to create office space, viewing rooms, service room, embalming, storage etc.

It is noted from the drawings that the existing finishes of the building, including the colours to be retained, apart from the fascia above the vestibule area which will be painted black following removal of existing signage. The office and quiet room areas will have obscure glazing. It is noted from the proposed plans that the existing car parking area (containing 10 spaces and 1 space for disabled visitors) to the rear of the building will be used to facilitate staff and visitors to the business.

In assessment of the above, it is noted that The Planning (Use Classes) Order (Northern Ireland) 2015 details a use for the purposes of a funeral undertaker as Sui Generis, as such there are no specific policies which relate directly to funeral undertakers. As the proposal is a change of use of an existing building and in the absence of specific policy criteria, it falls to the Planning Authority to consider the generic issues of traffic / parking, noise / nuisance and impact on the character of the area, particularly in light of its position adjacent to the Conservation Area, and make an assessment as to whether the proposal will create any demonstrable harm in terms of residential amenity.

In consideration of the sites location adjacent to the Conservation Area, it is considered that the change of use from a commercial premises to a funeral home, will not detrimentally affect the character of the Conservation Area, the building will remain as existing albeit with a few minor changes and its approval will bring a currently vacant building into use.

In terms of the access and parking, the Planning Authority has consulted with Transport NI (Roads Service) who have no objections to the proposal from a road safety perspective.

Parking requirements for this proposal are assessed against PPS3 Parking Standards, whilst the published standards are silent for funeral homes/parlours, the Planning Office have considered the closest use to the proposal is that for Churches and Church Halls, which requires 1 parking space per 3 seats. As this is a 90 seat facility, there is therefore a requirement for 30 parking spaces. It is noted that there are 11 existing parking spaces to the rear of the building and that the funeral home anticipates that on average 6 vehicles will be attracted to the site daily, therefore 5 spaces will remain for those residents above the application site. There are 5 2 bedroom apartments above the site – parking standards indicate that 1.5 spaces would be required per apartment therefore 7.5 are required. In consideration of this there must be some flexibility in the arrangement in that it is unlikely all residents, staff and visitors would be parked at the development at the same time given the

operational hours of the proposal. It is acknowledged that the parking provision falls short of the required level however having full consideration of the context for the proposal it is considered that within Saintfield, there are a number of church car parks i.e. Saintfield Presbyterian Church and Saintfield Parish Church, who have written to the Planning Office advising that visitors to the funeral could avail of their carparks to accommodate visitors to the proposed development.

In addition, there is ample on-street car parking and public car parks within Saintfield which would be available to the visiting public and it is not considered unreasonable for visitors to park and walk to the funeral home for a service.

On this basis the parking provision, whilst falling short of the required, can be provided for within a short distance from the proposed development and would not be justification to reject the proposal. It is noted that the Applicant currently operates his funeral business from the Main Street Saintfield which has no designated parking provision.

In assessment of noise and nuisance the Planning Authority consulted with the Environmental Health Department of Newry, Mourne and Down District Council, who replied with no objections. It is noted that there are other requirements to which the funeral home should comply that are outside the remit of planning i.e. health and safety requirements associated with embalming etc. In terms of noise, objectors have mentioned the use of refrigerators, of which the proposed floor plans do not show any, therefore no comment can be made on this issue. The agent has advised that hours of business will be 9am – 5pm Monday to Friday but that there will be attendance at the weekend should there be a funeral. He also advised that the embalming of bodies will take place in a controlled space and in compliance with EC Regulations.

I note the concerns of neighbours / objectors of the proposal regarding the affect the proposal will have on their general amenity in that they may feel obliged to curtail their activities out of respect for those attending the premises, however, the proposed hours of business are not considered to detrimentally affect their amenity.

On the basis of the above **approval** is recommended.

Conditions

- 1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
- 2. Hours of operation 9am – 5pm Monday to Friday.

Signed Date

Signed Date

| | | | | |
|------------------------|--|--------------------|-----------------------------|--|
| ITEM NO | 10 | | | |
| APPLIC NO | LA07/2017/0950/F | Full | DATE VALID | 19/06/2017 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | HWM Properties LTD 19 Ballyhannon Park Portadown BT63 5SF | | AGENT | WS Design 27 Acre Lane Warringstown Craigavon BT66 7SG |
| LOCATION | Lands adjacent to and rear of 40 Queens Park Crossgar Road Saintfield | | | |
| PROPOSAL | Housing development consisting of 2 detached and 2 semi-detached dwellings and associated site works | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 9 | 0 | 0 | 0 |
| | | | Addresses Signatures | Addresses Signatures |
| | | | 0 0 | 0 0 |

- 1 The proposed development is contrary to SPPS and PPS 8 policy OS1 in that it has not been demonstrated that the proposal will bring substantial community benefits that decisively outweigh the loss of the open space.
- 2 The proposed development is contrary to SPPS and Policy QD 1 of PPS 7 in that the design and layout of the proposed residential development is not based upon an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.
- 3 The proposed development is contrary to SPPS and Policy QD 1(a) of PPS 7 in that the development does not respect the surrounding context and is inappropriate in terms of layout, scale, proportions massing and appearance of the buildings, structures and landscaped and hard surfaced areas.



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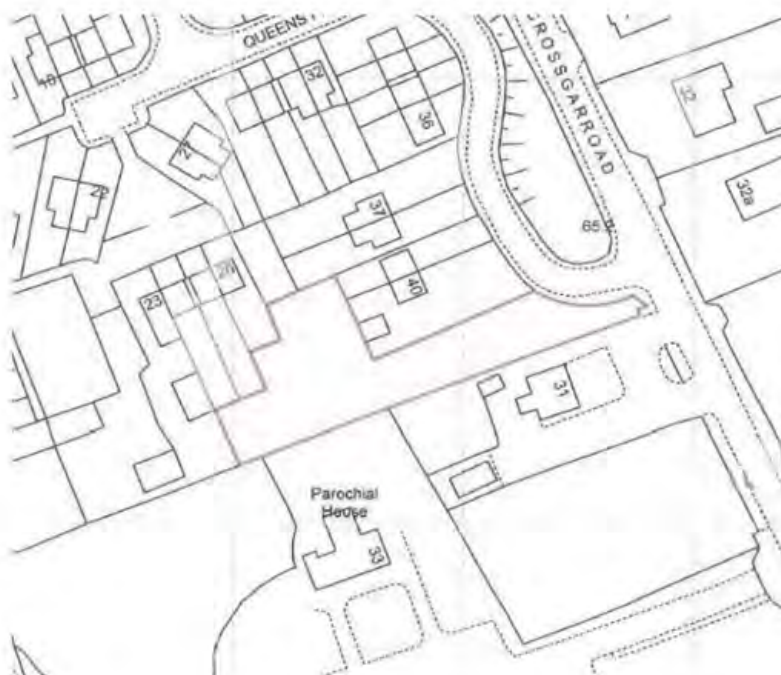
**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0950/F

Date Received: 19.06.2017

Proposal: The application is for full planning permission Housing development consisting of 2 detached and 2 semi-detached dwellings and associated site works

Location: The application site is located within the settlement of Saintfield village in whitelands with no particular zonings as designated in the Ards and Down Area Plan 2015. Crossgar Road is a protected route.



Site location



Site Characteristics & Area Characteristics

The site is located within an open space plot within an established residential area. The site is accessed from the Crossgar Road through the established access which serves Queens Park. The site rises to the west. The site has an established mature hedge along the southern boundary shared with No 31 Crossgar road and No 33 the Parochial House. The boundary to the north of the site is shared with No 40 Queens Park and is defined by mature 1.5m high (approx) hedge. The rear boundary with No 38 comprises a 1m wooden fence, as does the boundaries with No 24 and 25. The boundary with No 26 is a 1.5m mature hedge.

The site is located within Queens Park which is an established residential housing estate with housing types that vary from 2 storey semi-detached dwellings to terrace units. The dwellings are situated on medium sized plots with a small front garden and larger private rear garden. To the south of the site there are 2 detached dwellings and a Church. This area of Saintfield is largely residential.



Site History:

LA07/2016/0216/F 31 Crossgar Road, Saintfield, Co Down, BT24 7JE,
Extension and Renovation to dwelling PERMISSION GRANTED 20.04.2016

R/2014/0039/F 32 Queens Park Saintfield BT24 7AT

Rear extension to ground floor incorporating shower room, bedroom and new gable window. (Amended proposal description and amended plans). Permission granted - 09.07.2014

R/2011/0693/F Adjacent to 40 Queens Park, Crossgar Road Saintfield.
1 proposed no. new build, 2storey complex needs detached 'lifetime' eco-dwelling (Social Housing)
Permission granted - 11.06.2012

R/2009/0767/F 30 Queens Park, Saintfield, Co Down.
Removal of grass area and provision of parking bay at front of No 30 Queens Park, Saintfield.(amended plan). Permission granted - 03.12.2009

R/2008/0222/F 30 Crossgar Road, Saintfield, Ballynahinch, BT24 7AS.
Demolition of single storey dwelling to allow development of 9 apartments, 14 car parking spaces and associated landscaping. Permission granted - 02.09.2008

R/2007/0689/F 38 Crossgar Road, Saintfield, Co Down
Retrospective permission to demolish existing dwelling and construction of three detached dwellings. Permission granted - 25.07.2008

R/2007/0913/F 36 Queens Park, Saintfield, BT24 7AT
Kitchen extension with bedroom above to gable of end terrace house.
Permission granted - 09.11.2007

R/2005/0411/F 38 Crossgar Road, Saintfield. Demolition of existing dwelling and construction of 3 detached dwellings. Permission granted -17.01.2007
R/2004/1562/F 30 Crossgar Road, Saintfield Parks, Saintfield, Northern Ireland, BT24 7AS
Demolition of single storey dwelling to allow for development of 8 no. apartments and car parking.
Permission granted - 08.04.2006

R/2003/0775/F 4 Rowallane Dale, Saintfield Demolition of existing garage, proposed two storey extension & single storey rear extension. Permission granted - 07.08.2003

R/2003/0615/F 32A, Crossgar Road, Saintfield Parks, Saintfield, Northern Ireland, BT24 7AS
Change of use from residential nursing home to day nursery/crèche.
Permission granted - 07.08.2003

R/2002/1303/F 2 Rowallane Dale, Saintfield Parks, Saintfield, Northern Ireland, BT24 7LE
First floor extension. Permission granted - 04.12.2002.

Planning Policies & Material Considerations:

The application site is located within the settlement of Saintfield as designated in the Ards and Down Area Plan 2015 and as such the SPPS is the relevant policy document, which is read in conjunction with PPS 3, PPS 7, APPS 7, PPS 8, PPS 12, DCAN 8 and Creating Places guidance.

Consultations:

NI water – No objections
Transport NI – No objections subject to conditions

NIEA Water management – No objections

NIEA NED- acknowledge receipt of biodiversity checklist, but state that due contain a mature hedgerow to the south that leads into a small woodland block, advise that badger, bat, hedgerow and wild birds standing advice should be referred to.

Objections & Representations

In line with statutory requirements 17 neighbours have been notified on 29.06.2017. Nine letters of objection have been received to date. The application was advertised in the Mourne Observer and the Down Recorder on 05.07.2017.

REPRESENTATIONS

Letters of objection have been received from a number of residents, the main issues have been summarised as the following, however, full letters of objection are available to view on the planning portal.

The residents of Nos 23 and 25 Queens Park

- Planning application lacks the necessary detail
- No details of sections/or retaining structures
- No design and access statement
- No proposed landscaping plan
- Impact on animal habitat
- Contrary to PPS 7
- Developer trying to maximise profit potential over a suitably aesthetically suitable scheme.

No's 37 and 38 Queens Park have identifying the following issues of concern:

- impact on privacy, overlooking and loss of light and view
- proposal will increase traffic and parking congestion within the estate
- visually over bearing and inappropriate design
- will create noise, nuisance and general disturbance impact on wildlife

No 31 Crossgar Road

- No impact assessment
- Planning application lacks the necessary detail
- No details of sections/or retaining structures

- No design and access statement
- No proposed landscaping plan
- Impact of house type A on his boundary hedge and retaining structure and not feasible to build in the position shown
- Inappropriate design – no windows shown
- House type a will have an adverse effect on the structural integrity of the lands and retaining structure at their property
- Contrary to PPS 7.
- Developer trying to maximise profit potential over a suitably aesthetically suitable scheme

Objection letter received from resident at 33 Crossgar Road

- Impact on privacy of parishioners and take away privacy of dwelling

Consideration and Assessment:

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.

Any conflict between retained policy and the SPPS is to be resolved in favour of the SPPS.

The proposal seeks planning permission for a residential scheme consisting of 4 dwellings on the site, with one pair of semi detached and two detached properties. A layout has been submitted with the application along with full plans.

PPS 8 - Planning Policy Statement 8 Open Space, Sport and Outdoor Recreation

PPS8 sets out policies for the protection of open space. Policy OS1 of PPS8 states that development will not be permitted that would result in the loss of existing open space or land zoned for the provision of open space. The presumption against the loss of open space will apply irrespective of its physical condition and appearance. Annex A of PPS8 provides the definition stating that "open space is taken to mean all open space of public value". The Annex also lists a broad range of types of open space that are of public value. This includes amenity green space (most commonly,

but not exclusively in housing areas). The annex indicates that the functions of open space include visual amenity, even without public access, people enjoying having open space near to them to provide outlook, variety in the urban scene, or as a positive element in the landscape.

The area is a well maintained area of grass that appears to be regularly cut. Planning permission was previously granted on part of this site for one complex needs unit of accommodation. This now expired permission was granted by the previous planning authority upon which an argument was made that there was an exception that would decisively outweigh the presumption against the loss of the open space as indicated by Policy OS1. In this instance a letter of support identifying the social housing need within the area was submitted, with the proposal gaining support from the NIHE. In addition the previous scheme included the retention of the rear open space. The previous scheme did not result in the loss in the total area of open space only a small reduction. The previous scheme included a link from Queens Park to ensure the open space could be maintained and access afforded to the residents of Queens Park, which would still have community benefit. In addition the dwelling met the tests of PPS 7 and this basis was approved.

This scheme is now for two detached dwellings and two semi detached dwellings. and would result in the total loss of open space, no argument has been put forward as to the need for four dwellings on this plot at the loss of open space, thus the proposal is contrary to PPS 8 in that this proposal is not considered an exception that would decisively outweigh the presumption against the loss of the open space as indicated by Policy OS1. The applicant is not a social housing provider.

Notwithstanding the above the proposal requires to be assessed under Policy PPS 7.

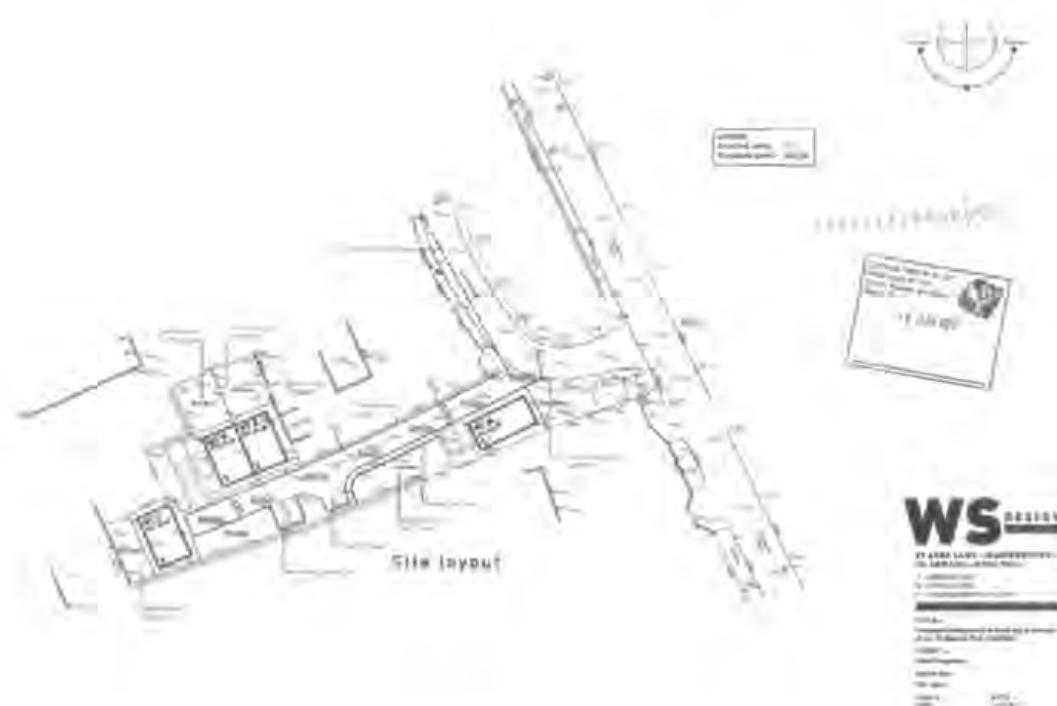
PPS 7 -Planning Policy Statement 7 Quality Residential Environments

PPS7 sets out planning policy for achieving quality in new residential development. Policy QD1 of PPS7 states that residential development should draw on the positive aspects of the surrounding area's character and appearance. Proposals' layout, scale, proportions, massing and appearance should respect the character and topography of their site. It also states that proposals for housing developments will not be permitted where they would result in unacceptable damage to the local character, environmental quality and residential amenity of the area. Developments should not be in conflict with, or cause adverse impacts upon adjacent land uses. Development Control Advice Note 8 "Housing in Existing Urban Areas" (DCAN 8) similarly notes that a development's impact on the character and amenity of a neighbourhood's are important matters to consider.

Policy QD 1 of Planning Policy Statement 7 – Quality Residential Environments (PPS 7) states that Planning permission will only be granted for new residential

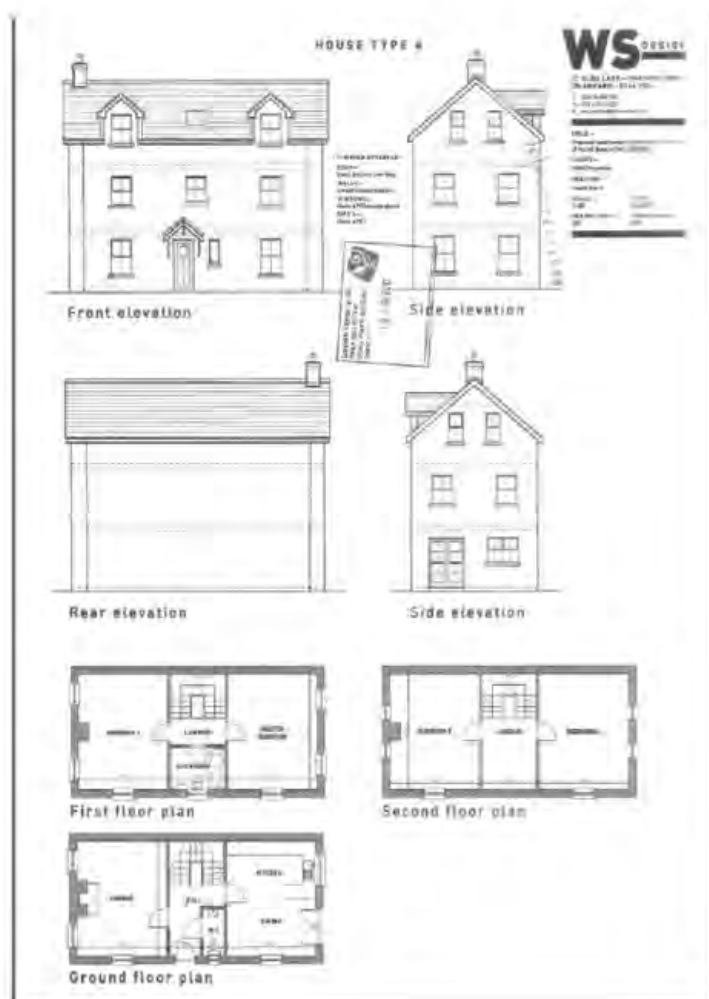
development where it is demonstrated that the proposal will create a quality and sustainable residential environment. Criterion (a) of Policy QD 1 requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaces.

The site is located at lands adjacent to and to the rear of 40 Queens Park, within the development limits of Saintfield. The character of the immediate area is a mixture of house types. To the north of the site is Queens Park which comprises an estate of both 2 storey semi-detached dwellings and groups of 4 terraces. The dwellings have sizeable front and rear gardens. The four dwellings (37-40) are set back from the road and are at a level higher than the Crossgar Road level with spacious front gardens, it is only until the access road to the rest of Queens park continues to sweep around that the front gardens become smaller and closer to the access road. This access road while sweeping in from Crossgar Road it also rises with the land.

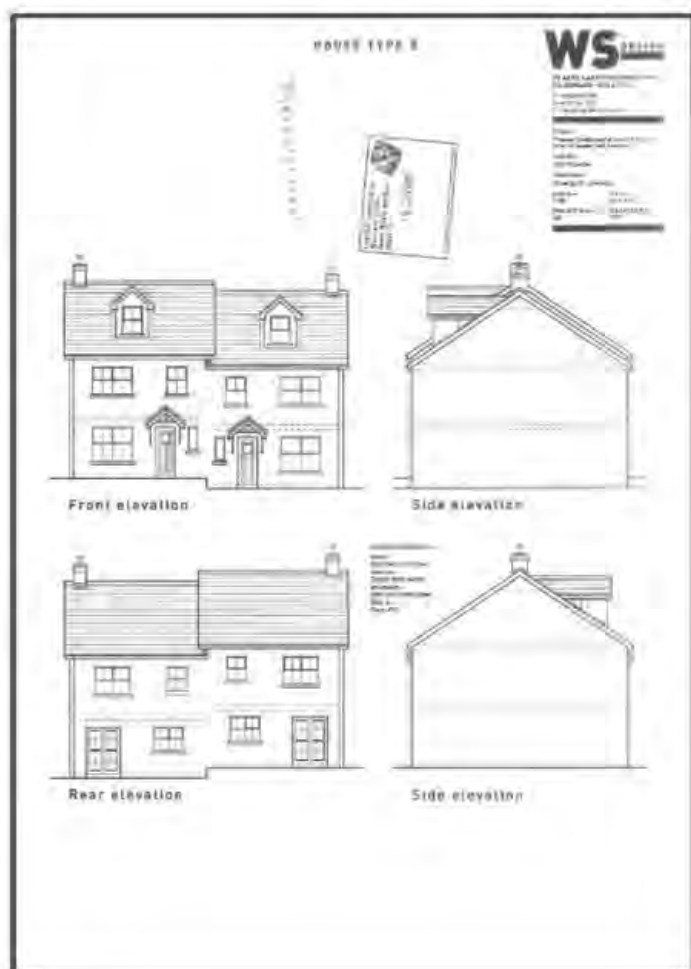


To the south of the site is No 31 a single storey hipped roof dwelling which has recently had renovation works and an extension and sits on a lower level than the site. The Parochial House from the Church, sits to the south of the site. Moving in a southerly direction the character changes where the density is higher within Queens Park becoming less dense the more south one travels. In consideration of the above, the character of this part of the road is predominantly residential with the exception of the Church and crèche opposite the site. The topography of the site is such that it rises gradually to the rear of the site.

House type A is a 3 storey dwelling, which is located at the entrance of the site and is orientated gable on to the Crossgar Road, with its 'front' elevation facing the access road into Queens Park and the front gardens of No's 40 - 37. Two car parking spaces are located to the west of this (type A) dwelling and a long elongated rear garden ensues with privacy wall around the boundary. Beyond this is a turning head. House type C is located at the end of the access road and comprises a detached two storey dwelling orientated to face towards Crossgar Road.



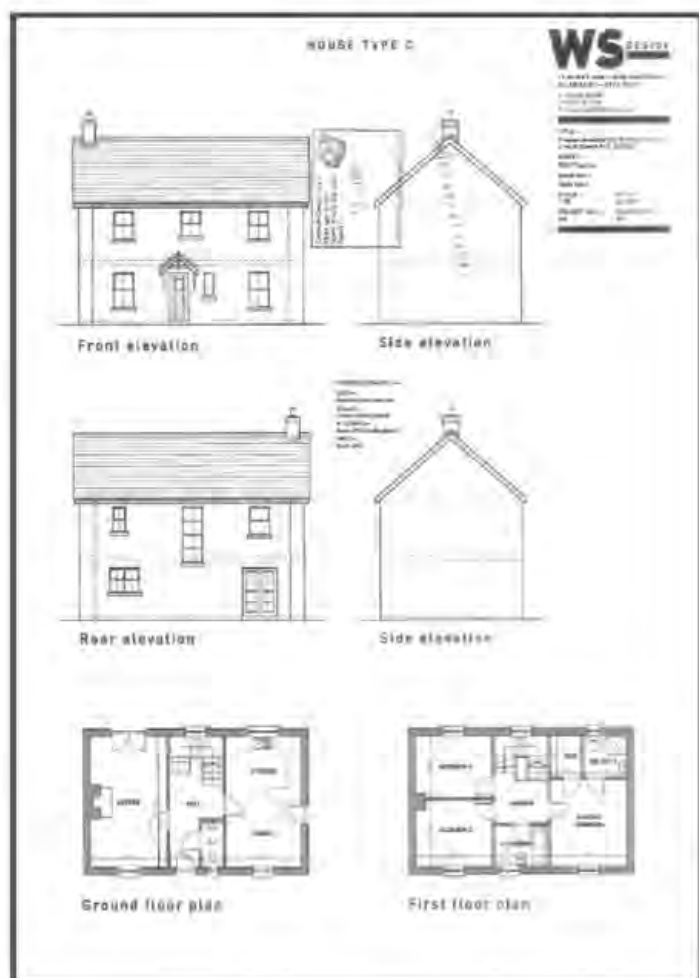
House Type B comprises a pair of semi-detached dwellings, which are stepped down in an easterly direction and both have dormer windows to the front, offering accommodation on 3 levels.



The site has more obvious gradient differences than the adjoining existing plots, and falls both in a N-S direction, but also in a W-E direction. The resulting long narrow Type A dwelling would appear awkward in its setting and visually jar with the immediately adjacent dwellings. The fact that it has a blank wall to its rear with no windows (in order to prevent overlooking to No 31) and that it has to rely on 3 levels of accommodation demonstrates that the design is contrived and I would agree with the point made by the objector at No 31 Crossgar Road in this instance. It relies on a long narrow plot of amenity space to the side which is 6m wide at its widest point (taking account of the mature hedge which separates it with No 31, it tapers off to a narrower width of less than 5m.

In addition in order to gain some sort of privacy to this amenity space a wall is proposed around its perimeter. Thus the entrance to the site is dominated by a 3 storey dwelling, a privacy wall and a lot of hard standing to accommodate a road access.

House type C is located at the rear of the site with only a 6m separation to its rear boundary plot and fills its entire plot. Such is the plot's narrowness that any dwelling would barely have any distance between its walls and the plot boundaries and resulting in no space for its two allocated parking spaces which are located closer to house type B.



In order to achieve a 10m rear garden, house type B sits within 2m of the access road, which would not be a characteristic of the area. There would be clear views of house type view as No 40's garage is single storey. The development relies on the generous rear gardens of the surrounding houses.

This overdevelopment of the site would be very different to the surrounding area and would be visible to residents of Queens Park, to those along the Crossgar Road and the adjacent Church grounds all of which would represent views of public interest.

Crucially the site's width is too restrictive to suitably accommodate the proposal, and the access road is informing its design. And while some degree of overlooking is inevitable in urban settings, it is felt the detailed design process would not be able to resolve all the privacy issues. The proposal would result in a contrived landform incompatible with its surroundings. The proposed dwelling at type A while is of a

similar building line to No 31, neither relates to it nor contributes to Queens Park and would not make a positive contribution to the surrounding area. The site's restricted nature would result in unacceptable damage to the area's local character and fail to provide a quality residential environment. The proposed scheme therefore fails the tests of QD 1 in that the development does not respect the surrounding context and is not appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas.

Access, Movement and Parking

Transport NI have offered no objections to this proposal. It is also considered that sufficient provision has been made parking and turning within the site.

Natural Environment Division

The agent has completed the biodiversity checklist and NED acknowledged receipt of this, but as there is a mature hedgerow to the south that leads into a small woodland block, advise that badger, bat, hedgerow and wild birds standing advice should be referred to. In terms of the site, no changes are proposed to the southern boundary, so in this instance I have not requested further information from the agent.

Conclusion

Based on careful consideration of all the relevant material planning considerations including letters of objection, it is contended that the proposal represents an unacceptable residential use in this location. Approval of this scheme would result in unacceptable damage to the area's local character and fail to provide a quality residential environment.

Recommendation:

Refusal

Refusal Reasons:

1. The proposed development is contrary to SPPS and PPS 8 policy OS1 in that it has not been demonstrated that the proposal will bring substantial community benefits that decisively outweigh the loss of the open space.
2. The proposed development is contrary to SPPS and Policy QD 1 of PPS 7 in that the design and layout of the proposed residential development is not based upon an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.

3. The proposed development is contrary to SPPS and Policy QD 1(a) of PPS 7 in that the development does not respect the surrounding context and is inappropriate in terms of layout, scale, proportions massing and appearance of the buildings, structures and landscaped and hard surfaced areas.

Case Officer Signature

Date

Appointed Officer Signature

Date

| | | | | |
|------------------------|---|--------------------|----------------------|---|
| ITEM NO | 11 | | | |
| APPLIC NO | LA07/2017/1077/O | Outline | DATE VALID | 17/07/2017 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | Mr Eammon O'Rourke 52 Legananny Road Ballyward Castlewellan BT31 9TG | | AGENT | DJ Cleland 74 Gilnahirk Road Belfast BT5 7DJ |
| LOCATION | Lands to the south-east of 32 Dromara Road Leitrim Castlewellan BT31 9SJ | | | |
| PROPOSAL | Dwelling on a farm including garage | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 15 | 0 | 1 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 12 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |

1 The proposal is contrary to the SPPS Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case for the following reasons:

There is a development opportunity for a farm dwelling approved on the holding.

The proposed new building is not visually linked (or sited to cluster) with an established group of buildings on the farm.

No health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm and

No verifiable plans exist to expand the farm business at the existing building group(s) to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.

2 The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

3 The proposal is contrary to the SPPS and Policies CTY 8 and 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, be unduly prominent in the landscape and would, if permitted create or add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.



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District Council

CONSIDERATION FOLLOWING DEFERRAL FROM COMMITTEE

Application Reference: LA07/2017/1077/O

Proposal: Dwelling and Garage on a farm

Location: Lands to the SE of No 32 Dromara Road, Leitrim.

The application was recommended for Refusal to Planning Committee on the 6 December 2017

The reasons for refusal were given as

1. The proposal is contrary to the SPPS Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case for the following reasons:
 - ☐ There is a development opportunity for a farm dwelling approved on the holding.
 - ☐ The proposed new building is not visually linked (or sited to cluster) with an established group of buildings on the farm.
 - ☐ No health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm and
 - ☐ No verifiable plans exist to expand the farm business at the existing building group(s) to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.
2. The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established

group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

3. The proposal is contrary to the SPPS and Policies CTY 8 and 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, be unduly prominent in the landscape and would, if permitted create or add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

The committee deferred the application, the following is an extract from the minutes of that meeting

On the proposal of Councillor Clarke seconded by Councillor McAteer it was agreed to defer Planning Application LA07/2017/1077/O to allow further discussions to take place between Agent / Applicant and Planning Officials with regard to the farm business ID and also for Planning Officials to liaise with NIEA with regard to development restrictions on the site due to the close proximity of Legananny Dolmen.

Further consideration has been given to the Farm Business, clarification has been sought from the agent. The applicant has stated in the P1C forms that no development opportunities or dwellings have been sold off since November 2008. A search of planning records has revealed that planning approval has been granted for a farm dwelling on the lands under Q/2010/0343/F to James O'Rourke, father of the applicant under farm business number 612849. It is noted from the applicants supporting statement this land has been inherited by the applicant who now operates the land under business number 655498. Application ref LA07/2016/0140/F for Change of House type to the above farm dwelling was granted to the applicant in May 2016 and remains an extant permission. As this development opportunity is located on the farm holding it is considered that the 10 year opportunity has been obtained and the proposal is therefore contrary to CTY10.

Further searches carried out in relation to the planning history attached to this farm holding indicate that a dwelling was sold off from the holding on 3 November 2014 (Field No 3/094/135/10 field at Magheramayo Road). The proposal is therefore contrary to CTY10 (b) also.

It is considered that the application can go no further in that the 1 in 10 year opportunity has already been granted to the farm holding, and this remains a live permission with an expiry of 2021 and a development opportunity has been sold off.

However in accordance with Planning Committee directions with regard to NIEA and the alleged restrictions posed by the Dolmen at the main farm grouping, contact has been made by the Planning

Office with Historic Monuments. Historic Monuments (HM) had not been formally consulted on this matter during the processing of the application. Through speaking to the applicant and viewing email correspondence provided by him, the Planning Office is aware that informal discussion had taken place between HM and the applicant in relation to siting at the Dolmen Road. This however was not submitted on this application. HM have advised they would provide comment should a site be proposed at the Dolmen site they would respond on such.

However it should be made clear that planning policy CTY10 is quite explicit on this matter and states that *exceptionally* (my emphasis), consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, *and* (my emphasis) where there are either:

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group(s).

This has not been demonstrated.

Following further consideration of the existing farm business, the fact that a farm dwelling has already been approved to the farm holding, that a development opportunity has been sold off from the holding, and that the proposed siting has not been sited to visually link or cluster with the group of buildings on the farm and that no exceptional circumstance has been demonstrated then it follows that the proposal is contrary to Policies CTY 10, 13 and 14.

Recommendation: REFUSAL

Signed:

Date:

Signed:

Date:



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1077/O

Date Received: 17th July 2017

Proposal: Dwelling and Garage on a farm

Location: Lands to the SE of No 32 Dromara Road, Leitrim.



Site Characteristics & Area Characteristics:

The site is comprised of a 0.4 hectare greenfield site located along the minor Dromara Road. The site is open and defined at the roadside by a post and wire fence. Immediately adjacent and NW of the site lies No.32 Dromara Road a single storey dwelling, which has a number of agricultural buildings surrounding.

The area is rural in character and located within the AONB as designated in the Ards and Down Area Plan 2015.

Site History:

There is no previous history on this site for this type of application.

Planning Policies & Material Considerations:

I have assessed the proposal against the following relevant policies:

- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Ards and Down Area Plan 2015
- Planning Policy Statement 2 – Natural Heritage
- Planning Policy Statement 3 – Access Movement and Parking
- Planning Policy Statement 21 – Sustainable Development in the Countryside
- Building on Tradition

Ards & Down 2015 – the site is located within the Area of Outstanding Natural Beauty (AONB) outside any defined settlement area.

Consultations:

Transport NI – No objections

DARDNI – Confirmed 6 years active business and payments claimed

Objections & Representations

The following neighbouring properties were notified on 24th July 2017:

- Nos 30, 31 and 32 Dromara Road, Leitrim

The application was advertised in the local press on 2nd August 2017.

A number of objections have been received regarding the proposal, they have been summarised below.

Alex Santos – states that this is an invalid application as the farm yard and land are not under the same ownership and that approval will ruin the existing view

Thomas McGeary – makes the same point as above

Michelle Anderson – also is concerned about the impact the proposal will have on the scenic value of the area and that there is no farm attached to the field

Hillcrest Walking Club – object to the proposal on the grounds of ecology and public safety in that approval would spoil views and result in the erection of fencing which would disrupt their hill walking activities.

A petition with 12 names has been submitted raising those issues notes above

Consideration and Assessment:

The proposal seeks outline planning permission for a farm dwelling and garage.

Under CTY1 of Policy PPS21 a dwelling on a farm will be permitted where it meets the criteria of CTY10, CTY 13, CTY14 and CTY16.

Under Policy CTY 10 of PPS21 a dwelling can be erected on a farm where it meets all the criteria.

The applicant has provided a DARD business ID 655498. DARDNI have been consulted and have confirmed that the farm business has been in existence for more than 6 years and that single farm payments or other allowances have been claimed in the last 6 years.

It is considered that criteria (a) have been met.

The applicant has stated in the P1C forms that no development opportunities or dwellings have been sold off since November 2008. A search of planning records has revealed that planning approval has been granted for a farm dwelling on lands adjacent 37 Dolmen Road Castlewellan see Q/2010/0343/F. This dwelling was granted under farm business number 612849 to James O'Rourke. It is noted from the applicants supporting statement this land has been inherited by James O'Rourkes' son Eamonn O'Rourke, who now operates the farm under business number 655498. As this development opportunity is located within the holding currently owned by the applicant, it is considered that the 10 year opportunity has been obtained and the proposal is therefore contrary to CTY10.

The farm buildings associated with this business number are located a Legananny and Dolmen Road, several miles from the application site. It is noted in the accompanying statement that the applicant considers the land adjacent these buildings inappropriate for development given the presence of Legananny Dolmen a state protected monument (shown below) and that HED have previously advised that further development within the vicinity of this monument would not be permitted.



With this opinion in mind the applicant has submitted an off-site proposal. Policy CTY 10 will exceptionally give consideration to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and (my emphasis) where there are either :

- Demonstrable health and safety reasons; or
- Verifiable plans to expand the farm business at the existing building group(s)

It is noted that there are no farm buildings associated with this farm business adjacent the site. Those immediately adjacent at No 32 are not associated with the applicants' farm business.

In the applicants supporting statement, it is noted that no health and safety reasons have been given regarding the off-site proposal. However, the applicant has stated that plans to expand the farm business at the existing building group at Legananny Road would not be possible due to the presence of Legananny Dolmen and indicates from Historic Environment Division that further development will not be permitted. I do not accept this latter justification and consider that there are opportunities adjacent the existing farm buildings which can be utilised, without detriment to the archaeological aspects of the land provided they are appropriately conditioned.

CTY13

The site is located within an open 0.4hectare green field, which is defined on all sides by a post and wire fence, with hedges and a few mature trees along the south-eastern boundary



It is considered given the open nature of this site, that any dwelling would appear prominent in the landscape and would require new landscaping for integration. In addition, and as discussed above the proposed farm dwelling would not be sited to cluster or visually link with a group of buildings on the farm. It is considered therefore, that the proposal fails to comply with CTY 13 of PPS21.

CTY14

It has been considered above that the proposed dwelling would appear prominent in the landscape. There is also concern that the proposed dwelling would create a ribbon of development when viewed with in conjunction with the new dwelling to the SE of the site that to the NW at No 32 Dromara Road as can be seen below.



Summary

On the basis of the above assessment it is considered that the proposal is contrary to Policies CTY 10, 13 and 14.

Recommendation: REFUSAL

REASONS:

1. The proposal is contrary to the SPPS Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case for the following reasons:
 - There is a development opportunity for a farm dwelling approved on the holding.
 - The proposed new building is not visually linked (or sited to cluster) with an established group of buildings on the farm.
 - No health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm and
 - No verifiable plans exist to expand the farm business at the existing building group(s) to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.
2. The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established

group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

- 3. The proposal is contrary to the SPPS and Policies CTY 8 and 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, be unduly prominent in the landscape and would, if permitted create or add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

Signed:

Date:

Signed:

Date:

STATEMENT TO THE PLANNING COMMITTEE OF NEWRY, MOURNE AND DOWN COUNCIL IN SUPPORT OF PLANNING APPLICATION LA07/2017/1077 FOR A DWELLING ON A FARM AT DROMARA ROAD, LEITRIM

The reasons for refusal can be grouped into 3 issues.

1. Firstly there is a development opportunity for a farm dwelling approved on the farm.

The planning report to the Committee accepts that Mr O'Rourke's farm business meets the policy requirements in principle for a dwelling on a farm. However, it argues that there is a planning approval on the farm which removes Mr O'Rourke's right to a dwelling under his own farm business number.

However,

- this approval was granted to his father under his father's business number;
- it was inherited by Mr O'Rourke on his father's death, and was renewed by Mr O'Rourke in May 2016 by an application for a change of house type; and
- he has not received a planning approval for a dwelling on the farm under his own farm business number.

The existing planning approval has been inherited as a result of a family misfortune and should not be counted as a development opportunity which prevents favourable consideration of the present application.

2. The second reason for refusal is that the proposed dwelling is not sited to cluster with an established group of buildings on the farm.

The existing farm buildings are located at Legananny Road. The proposed dwelling is not located here because Mr O'Rourke's farmlands form the visual setting to Legananny Dolmen. Planning policy excludes development in the settings of important archaeological sites and provides exceptions only for proposals of overriding regional importance.

In an email to me dated 22 January 2018, NIEA, which has statutory responsibility for state care monuments, has restated its long-standing opposition to further development in the fields beside the Dolmen and adjacent to Mr O'Rourke's farm buildings. As a result, Mr O'Rourke has had no option but to apply for approval off-site at his other farmlands at Dromara Road which are also within his farm business number.

The exceptions available under policy CTY10 allow development off site where land beside the farm buildings either cannot be developed for health and safety reasons or is needed for other development. Because he cannot develop anything on the lands beside the Dolmen, these exceptions are not available to Mr O'Rourke. However, planning policy cannot anticipate all exceptional circumstances which may warrant favourable consideration. The restrictions on development due to the Dolmen are a genuinely exceptional reason which requires off-site location – indeed this is the only option available to Mr O'Rourke. The Committee is requested to give sympathetic consideration to off-site location in the specific circumstances of this case. Refusal of off-site location will mean that Mr O'Rourke can never get approval

under his own farm business number for a dwelling on his farm either at Legananny Road or off site.

This is at odds with the intention of policy CTY10 which is to provide the opportunity for rural communities to find housing in their own local areas and this is the purpose of Mr O'Rourke's application. His intention is to provide a farmhouse for a young local man on what was his family's home farm but is regrettably no longer due to unfortunate circumstances. The proposed dwelling will reinstate him in a farmhouse on his family's land and enable him to build a future in his local community. Refusal of the application will deny him that opportunity.

3. The third reason for refusal is that the dwelling would be unduly prominent and create ribbon development.

The dwelling will not be unduly prominent. Fig.1 shows that on the approach from the north, it will be screened from view by the building group on the adjoining lands.



Fig.1 – Approach to the site from the north on Dromara Road

Fig.2 shows that on the approach from the south, the mature trees and hedge on the southern boundary provide screening, and these will be retained. The dwelling will be visible from only the short stretch of Dromara Road along the frontage of the site.



Fig.2 – Approach to the site from the south

The proposed site is an enclosed field with established boundaries. The dwelling will be sited to the rear of the field to integrate with the buildings on the adjacent site as required by policy CTY13. It will not be elevated – the ground level at the rear of the site is only a few metres above road level. The dwelling will be single storey and will be lower than the adjacent buildings.



Fig.3 – The proposed site

Fig.2 shows that the new dwelling to the south-east is on a much more open and visually prominent site, without any screening, yet has been assessed as meeting policy CTY13. It provides the benchmark for assessment of prominence against which this proposal must be judged. The present proposal clearly has a significantly greater degree of visual integration into the landscape and is not unduly prominent.

The dwelling does not create ribbon development. Fig.4 shows an illustration of ribbon development taken from the planning design guide 'Building on Tradition'.



Fig.4 – Ribbon development (From 'Building on Tradition')

It shows a continuous ribbon of dwellings close together along a road frontage.

Fig.5 shows that the relationship between the proposed dwelling and the existing buildings to the north and south-east is quite different.



Fig 5 – Illustrating the distance from the new dwelling to the south-east

It is clearly not a continuous and closely built up ribbon of development - there will be a significant separation distance of around 100 metres between the proposed dwelling and the dwelling to the south-east. Fig.2 also illustrates that the buildings will not be visible as a line of dwellings – indeed it is clear on this approach that they will not all be visible together. The pattern is one of scattered dwellings typical of the character of the countryside, and not a continuous and closely built ribbon of development.

Thank you for hearing us and I hope you can support the application.

| | | | | |
|------------------------|--|--------------------|----------------------|---|
| ITEM NO | 13 | | | |
| APPLIC NO | LA07/2017/1405/O | Outline | DATE VALID | 15/09/2017 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | Mr V MacNabb 46 Ballynoe Road Downpatrick BT30 8AJ | | AGENT | Fletcher Architects (NI) Ltd 25 Main Street Castlewellan BT31 9DF |
| LOCATION | 65m South West of 7 Ballystrew Road Downpatrick Co Down | | | |
| PROPOSAL | Proposed site for infill dwelling, detached garage and associated site works | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 2 | 0 | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |

- 1 The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2 The proposal is contrary to the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site within a substantial and continuously built up frontage.
- 3 The proposal is contrary to the Strategic Planning Policy Statements (SPPS) objective to promote high standards in the siting of development, as the dwelling, if permitted, given the proximity of the site to an existing approved turbine, may be affected by noise and other disturbance.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1405/O

Date Received: 7th September 2015

Proposal: Proposed site for infill dwelling, detached garage and associated site works

Location: 65m SW of 7 Ballystrew Road, Downpatrick

Site Characteristics & Area Characteristics:

The site is located along the minor Ballystrew Road, Downpatrick. It is comprised of a 0.375 hectare agricultural field currently used for grazing, which is relatively flat and defined on all sides by mature vegetation. The site is positioned on lands to the rear of 7 and 9 Ballystrew Road and is accessed via an existing lane from Ballystrew Road.

The site is positioned slightly below road level and slopes down steadily in a southerly direction. The site is defined at the roadside by a stone wall, with a block wall along the eastern boundary and a timber post and rail fence to the western boundary.

The site is located within the rural area as designated in the Ards and Down Area Plan 2015. The area is predominantly used for agricultural purposes, however, there are a number of single dwellings positioned on large plots within the immediate vicinity.



Site History:

There is no planning history on this site.

Planning Policies & Material Considerations:

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS 3, 6, 18 and 21 (CTY 1, 8,

13, 14, 15), Building on Tradition (Guidance Document), in addition, to the history and any other material consideration.

The application was advertised in the local press on 04.10.17

The following neighbours were notified of the proposal on 21.09.17:

7 and 9 Ballystrew Road Downpatrick.

Consultations:

Consultations were carried out with Environmental Health, Transport NI and Northern Ireland Water (NIW) to which there are no objections.

Objections & Representations

Two objections have been received.

7 Ballystrew Road – objects on the grounds of ribbon development and does not consider the site to be a gap site within an substantial and continuously built up frontage.

9 Ballystrew Road objects on the basis that the application is site is not an infill site.

Consideration and Assessment:

The site is located in the countryside and within the AONB as designated in the Ards and Down Area Plan (ADAP) 2015. The ADAP, which operates as the statutory Local Development Plan relevant to the application site, contains no provisions specific to this proposal for residential development in the countryside. In addition, no conflict arises between the provisions of the Strategic Planning Policy Statement 2015 (SPPS) and any retained policies regarding issues raised by this proposal. Consequently, the relevant policy context is provided by Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21).

Planning Policy Statement 21 provides the policy context, its Policy CTY1 specifies a range of types of development considered acceptable in principle in the countryside and that will contribute to the aims of sustainable development. The applicant considers the proposal is acceptable as a gap site in accordance with Policy CTY 8.

Policy CTY8 while entitled 'Ribbon Development' makes provision for the development of a small gap sufficient to only accommodate a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

A substantial and continuously built up frontage includes a line of three or more buildings along a road. In order to ascertain whether this site constitutes a small gap

an assessment of the existing pattern of development reveals that Nos.5, 7 and 9 all share a frontage on Ballystrew Road. The proposed site sits on land to the rear of Nos 7 and 9 and is accessed via a lane between these two dwellings.



It is noted however, that the site does not share a frontage with Ballystrew Road as it only joins the Ballystrew road via an access and is set back from the road by approximately 42m and is defined on all sides by fencing and vegetation.



Given its position therefore, I do not consider this site to form a gap site within a substantial and continuously built up frontage and therefore the proposal does not comply with current policy and should be recommended for refusal on this basis as there is no justification for a dwelling at this location.

In addition it is noted that the site is positioned approximately 300m east of a wind turbine. The Best Practice Guidance to PPS 18 states that properties within 130 degrees either side of north of a turbine may be affected by shadow flicker. It is considered that the proposed dwelling would be located within this area and therefore the proposed occupants may be affected by shadow flicker. In addition, given the proximity of the site to the turbine, it is considered that proposed occupants may be detrimentally affected by noise. This has been confirmed by Environmental Health who stated in their consultation response that the existing turbine [has] "the potential to give rise to offensive conditions and a resulting impact upon the amenity enjoyed by the proposed development due to noise". It would not be good planning practice therefore to approve a dwelling knowing that the residents could potentially be detrimentally affected by an existing use.

Recommendation: REFUSAL

REASON:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site within a substantial and continuously built up frontage and would if permitted add to a ribbon of development.

3. The proposal is contrary to the Strategic Planning Policy Statements (SPPS) objective to promote high standards in the siting of development, as the dwelling, if permitted, given the proximity of the site to an existing approved turbine, may be affected by noise and other disturbance.

Signed

Date

Signed

Date

BF / J485 / 05 April 2018

Newry, Mourne & Down Council
Planning Office
Monaghan Row
Newry
Co Down
BT35 8DL

RE: PROPOSED SITE FOR INFILL DWELLING, DETACHED GARAGE & ASSOCIATED SITE WORKS AT LAND 65M SOUTH WEST OF 7 BALLYSTREW ROAD, DOWNPATRICK, CO. DOWN

REF: LA07/2017/1405/O

Dear sir

I refer to the above planning application, which is to be discussed at the Council's planning committee meeting on 11 April 2018. The application has been recommended for refusal for the following reasons:

- The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement
- The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site within a substantial & continuously built up frontage
- The proposal is contrary to the Strategic Planning Policy Statements (SPPS) objective to promote high standards in the siting of development, as the dwelling, if permitted, given the proximity of the site to an existing approved turbine, may be affected by noise and other disturbance

The planning case officer has stated in their report that they do not consider the application site to form a gap site as it does not share a frontage with Ballystrew Road and is set back approximately 42m and is defined on all sides by fencing and vegetation.

We wish to bring an application to your attention which has been approved by Armagh, Banbridge and Craigavon Borough Council on 03/02/2017 under planning reference number LA08/2016/1657/O. The application was approved on the basis that the planning office considered the existing dwelling at 44 Ballybrolly Road, Tassagh to share a common frontage along this road with another 2 dwellings. The case officer's report states that 'number 44 is also located along the road but is set back from the road and down the hill by approximately 90m. It is narrower at the front and wider at the back.'



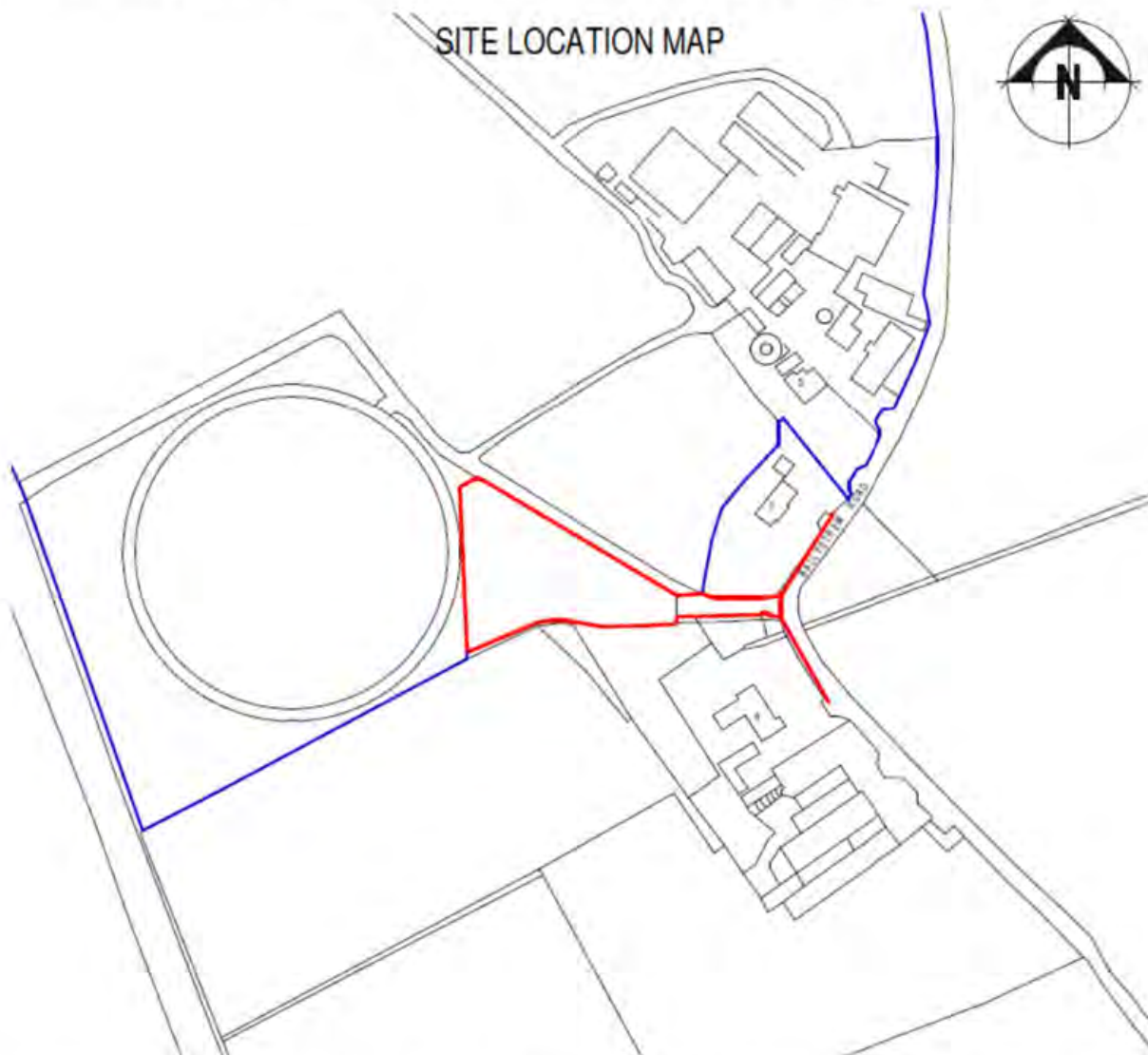
LA08/2016/1657/O- 44 Ballybrolly Road, Tassagh, approved 2017. Note that no 44 (to the east of the application site) is set back from the road and accessed by a lane, has boundaries on all sides but is deemed to share a common frontage on Ballybrolly Road

25 Main Street, Castlewellan,
Co. Down, BT31 9DF
tel: 028 437 78710
e: info@fletcherarchitects.co.uk

Room 2, 21 Kinelowen Street,
Keady, Co. Armagh, BT60 3ST
tel: 028 37 539530
e: mail@fletcherarchitects.co.uk

mob: 07764 948191
www.fletcherarchitects.co.uk

It is felt that the application site is similar to no 44 Ballybrolly Road referred to above, in that it is set back and is located 40m from the road. The application site is also wider at the back and narrower at the front. The lane forms part of the frontage with Ballystrew Road.



LA07/2017/1405/O – Ballystrew Road, Downpatrick. Note that the application site is set back from the road and accessed by a lane

25 Main Street, Castlewelan,
Co. Down, BT31 9DF
tel: 028 437 78710
e: info@fletcherarchitects.co.uk

Room 2, 21 Kinelowen Street,
Keady, Co. Armagh, BT60 3ST
tel: 028 37 539530
e: mail@fletcherarchitects.co.uk

mob: 07764 948191
www.fletcherarchitects.co.uk

The final reason for refusal is based around proximity of the application site to an existing approved wind turbine. The turbine is located 300m to the west of the site. Planning have expressed concern that the occupiers of the site may be affected by noise and other disturbances.

It should be noted that the wind turbine was approved under planning ref R/2011/0189/F for a 30m high hub and then again under planning ref R/2014/0305/F for a taller wind turbine, 40m hub height. It should be noted that the wind turbine applications were approved even though they were located 300m from existing dwellings at 5, 7 & 9 Ballystrew Road and 46 & 52 Ballynoe Road, Downpatrick.

The case officers report for planning ref R/2011/0189/F states;

'(vi) that the development will not cause significant harm to the safety or amenity of any sensitive receptors (including future occupants of committed developments) arising from noise, shadow flicker, ice throw; and reflected light;

Not applicable in this case'

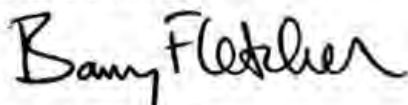
The impact of shadow flicker from the wind turbine to the occupants of the above existing dwellings was not felt to be a reason for refusal for the wind turbine application but is now an issue with an application for a proposed single dwelling.

A full noise report was submitted and accepted for the wind turbine application that resulted in its approval.

We feel that the 'noise & disturbance' refusal reason should be dismissed and the application be considered in the same way as the wind turbine applications.

I would be grateful if the planning committee would take the above into consideration in determination of this application.

Yours sincerely



Barry Fletcher RIBA
Director, Architect

FLETCHER ARCHITECTS (N.I.) Ltd

| | | | | |
|------------------------|---|--------------------|-----------------------------|--|
| ITEM NO | 14 | | | |
| APPLIC NO | LA07/2017/1588/F | Full | DATE VALID | 16/10/2017 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | Philip Young Esq 77a Cahard Road Ballynahinch BT24 8yd | | AGENT | John Kirkpatrick Architect 20 Ballyknockan Road Saintfield BT24 7HJ |
| LOCATION | 77a Cahard Road Ballynahinch BT24 8YD | | | |
| PROPOSAL | 2 storey side extension to a dwelling to allow kitchen/dining/living area with lounge above | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 0 | 0 | 0 | 0 |
| | | | Addresses Signatures | Addresses Signatures |
| | | | 0 0 | 0 0 |

- The proposal is contrary to Policy EXT 1 from Addendum to Planning Policy Statement 7 Residential Extensions and Alterations in that the scale, massing and design of the extension is not sympathetic with the built form and appearance of the existing property and will detract from the appearance of the surrounding area.



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Application Reference: LA07/2017/1588/F

Date Received: 16th October 2017.

Proposal: 2 storey side extension to a dwelling to allow kitchen/dining/living area with lounge above.

Location: 77a Cahard Road, Ballynahinch.



Site Characteristics & Area Characteristics:

The site in question is a single storey detached dwelling located off the Cahard Road and is accessed via an existing shared access. The design of the dwelling is of its time with large 'picture' windows and a central return with amenity area surrounding. There are planted field boundaries between the public view points of the road and the dwelling and strong planted boundaries to the boundary to the rear of the dwelling however the dwelling is still visible when travelling along the Cahard Road. The boundary to the west of the site is defined by a post and wire fence. The site is accessed via a shared lane.

The site is not located within any settlement development limits as defined in the Ards and Down Area Plan 2015, there are no relevant site constraints associated with the lands in question.

Site History:

R/1979/0674 – Cahard Road, Ballynahinch – Bungalow – approval – 06-04-1980.

Planning Policies & Material Considerations:

The application is considered against Ards and Down Area Plan 2015 and also Addendum to PPS 7 Residential Extensions and Alterations and SPPS.

Consultations:

No additional consultations are required in order to be able to make a determination on the application.

Objections & Representations

The application was advertised 1st November 2017 which expired 15th November 2017, no neighbour notifications were required and to date there have been no objections made in relation to this application.

Consideration and Assessment:

The proposal is for a two storey side extension to the dwelling and also for external changes including the blocking up of windows and introduction of new access door arrangements and also the internal reconfiguration of the dwelling.

The proposed extension is 6.2m wide and the frontage of the dwelling increases from 13.9m to 19.9m in length. The proposed extension introduces a two storey element to the dwelling. The ridge of the existing dwelling is 5.5m with the proposed ridge of the extended section 6.7m in height. The proposed extension sits gable ended to the road. The proposal also introduces stone finish to the proposal.

The application is considered against EXT 1 of Addendum to PPS 7 Residential Extensions and Alterations which sets out the policy considerations for extensions to dwellings within the residential curtilage of a dwelling.

The scale, massing and design of the proposal is not sympathetic with the built form and appearance of the existing property. The proposed extension introduces a two storey element that is not respectful of the design of the existing property. The extension sits gable ended to the road with a dominating impact over the remainder of the dwelling. The chimney breast, while internal dominates the front façade of the dwelling and the extension in general is not subordinate to the existing dwelling and will detract from the appearance of the property. There is an internal reconfiguration associated with this application which leads to the blocking up of some doors and windows, while the removal of the 'picture' windows and the replacement with smaller openings that offer a greater vertical emphasis and solid to void ratio is welcomed this improvement is lost with the overall demonstrable harm caused by the scale, massing and design of the proposed extension. The large glazed openings and introduction of stone finish is not in keeping, nor respectful of the existing dwelling.

The extension will, to a lesser degree, detract from the appearance and character of the surrounding area due to the poor design that is not in keeping with the general form and character of buildings in the area and characteristic overall of rural areas.

The remainder of EXT 1, i.e. point's b-d will not be adversely impacted upon as a result of this proposal.

Recommendation:

Refusal

Refusal Reasons:

The proposal is contrary to Policy EXT 1 from Addendum to Planning Policy Statement 7 Residential Extensions and Alterations and SPPS in that the scale, massing and design of the extension is not sympathetic with the built form and appearance of the existing property and will detract from the character and appearance of the surrounding area.

Case officer:

Authorised by:

Date:

ITEM NO 16
APPLIC NO LA07/2017/1668/F Full **DATE VALID** 01/11/2017
COUNCIL OPINION REFUSAL
APPLICANT Mr & Mrs Joseph Bell 33 **AGENT** Tumelty Planning Services 11 Cluntagh Road Crossgar Downpatrick BT30 9ET Ballyalton Park Ardmeen Downpatrick BT30 7BT

LOCATION 33 Cluntagh Road Crossgar BT30 9ET

PROPOSAL Conversion of stables to domestic annex to be used as granny flat

| REPRESENTATIONS | OBJ Letters | | SUP Letters | | OBJ Petitions | | SUP Petitions | |
|-----------------|-------------|---|-------------|---|---------------|------------|---------------|------------|
| | 0 | 0 | 0 | 0 | Addresses | Signatures | Addresses | Signatures |
| | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

- 1 The proposal is contrary to the provisions of SPPS and 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. The proposal is located outwith the residential curtilage of No.33 Cluntagh Road.

- 2 The proposal is contrary to the Strategic Planning Policy Statement Policy (SPPS) and Policy CTY 4 of Planning Policy Statement 21, in that the building to be converted is not considered to be a locally important building.



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 agus an Dúin**

**Newry, Mourne
 and Down**
 District Council

Application Reference: LA07/2017/1668/F

Date Received: 31.10.2017

Proposal: The application is for full planning permission for conversion of stables to domestic annex to be used as granny flat.

Location: The application site is located outside the settlements in the open countryside as designated in the Ards and Down Area Plan 2015.





Site Characteristics & Area Characteristics

The site accommodates a roadside bungalow, with tarmac driveway and well maintained front lawn. There is a row of conifer hedging which separates the lawn area from the subject building. The subject building is located on what would be a paddock area, the current use of the building is as stables and the applicant stated on site that he longer wishes to keep horses. The barn is comprised of stone construction, and is separated by a partial internal wall forming two stables. Work to reconstruct the internal/external southern gable wall has taken place. The site is accessed via the existing tarmac driveway and through a gap between the conifer hedge and a wooden fence. An outbuilding is located to the northern part of the site adjacent to the bungalow, which is also fenced off with the wooden fence. The remaining part of the paddock is bounded by a post and wire fence.





Google street view Oct 2008

**Site History:**

R/1979/0121 Cluntagh Road, Crossgar New Dwelling Permission Granted.

Planning Policies & Material Considerations:

The application site is located outside the settlements in the open countryside as designated in the Ards and Down Area Plan 2015 and as such the SPPS is the relevant policy document, which is read in conjunction with PPS 3 and PPS 21, PPS 7 (Addendum) and PPS 21 and associated guidance is also referenced.

Consultations:

NI water – No objections

Transport NI – No objections to this proposal, these comments are on the basis that there will be no intensification in use and Council Planning is happy with the car parking provision.

Objections & Representations

In line with statutory requirements one neighbour has been notified on 16.11.2017. The application was advertised in the Mourne Observer and the Down Recorder on 15.11.2017.

Consideration and Assessment:

The policy context is provided by Planning Policy Statement 21 'Sustainable Development in the Countryside' whereby PPS21 sets out the planning policies for development in the countryside. Policy CTY 1 of PPS21 states there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.

The subject building lies outside the residential curtilage of No.33 and is therefore located with the Countryside. There is no planning history on the site which would suggest the extension to the residential curtilage has been approved either through a planning application or the submission of a CLUD.

The application is for 'Conversion of stables to domestic annex to be used as granny flat'. The red line of this application extends to include the dwelling of no. 33 (with attached double garage) and also the subject outbuilding and also a detached shed. While there is access to the site from No 33, it is considered that the stable to be converted does not form part of and lies outside the established curtilage of no.33. as such CTY4 of PPS21 is the relevant policy.

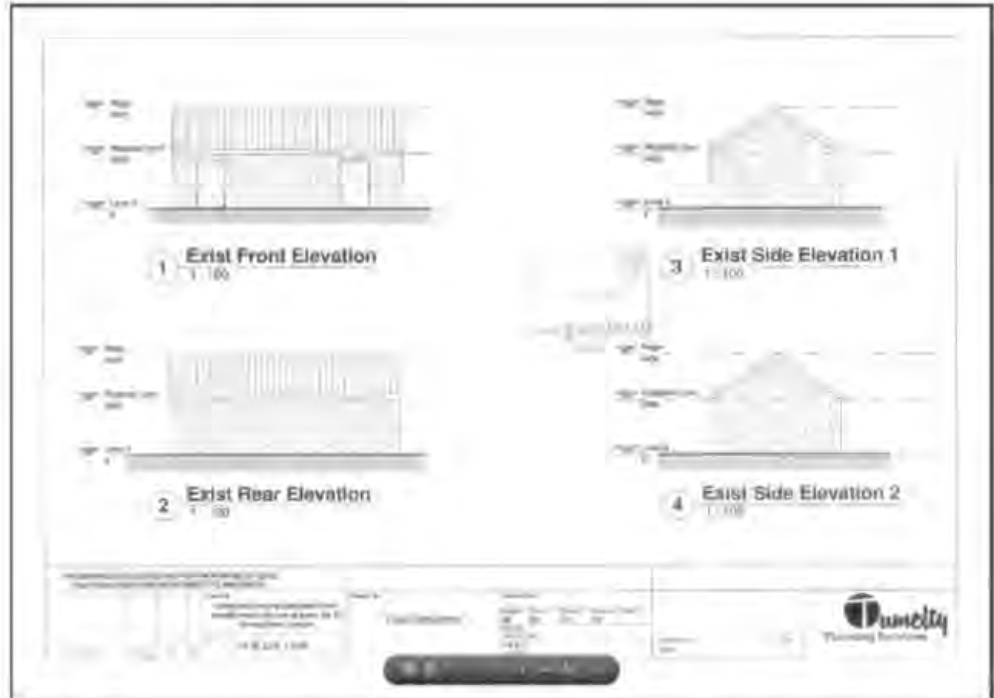
PPS 4 -The conversion and re-use of existing buildings

Policy CTY 4 states that planning permission will be granted to proposals for the sympathetic conversion, with adaptation if necessary, of a suitable building for a variety of alternative uses, including use as a single dwelling, where this would secure its upkeep and retention. The SPPS however provides policy clarification in that it states at paragraph 6.73 that provision should be made for the sympathetic conversion and re-use, with adaptation if necessary, of a locally important building as a single dwelling. The transitional arrangements set out in paragraphs 1.10 to 1.13 thereof state that where the SPPS introduces a change of policy direction and/or provides a policy clarification that would be in conflict with retained policy, the SPPS should be afforded greater weight in the assessment of individual planning applications.

The SPPS does not define 'locally important buildings' but it does list a number of examples, namely former school houses, churches and older traditional barns and outbuildings. These examples suggest that such buildings should be of some worth to the local area in terms of their aesthetic, architectural, historical or community value. However, as the examples do not provide an exhaustive list, there may be other factors that could render a particular building locally important.

The building is comprised of both stone and concrete block where repairs on the gable wall have taken place. The roof is comprised of corrugated iron metal. It is proposed to convert the existing outbuilding to a granny flat, comprising 1 bedroom, kitchen/dining area, seating area and ensuite, with the addition of a porch to the front elevation. The accommodation will be contained within the existing footprint of the outbuilding, whereby the walls will be retained as per existing, with the addition of a slate roof. At present there are two door openings, these will be replaced with windows, with the addition of 3 additional windows to the eastern elevation.

The stable is typical of most other rural buildings of a similar age and type. Having under taken site visit, the building cannot be regarded as being locally important as it doesn't possess any particular architectural features of worth to the local area nor has any evidence of this been put forward regarding this, or that it has any particular local historical value.



As the proposal has been described as an annex to be used as a granny flat the provisions of the Addendum to PPS7 (Residential Extensions and Alterations) have been applied for completeness.

The supporting text of Policy EXT 1 of the Addendum to PPS 7, in addressing the issue of ancillary accommodation for elderly or dependent relatives, refers to the conversion and extension of existing outbuildings in situations where enlargement of the host dwelling is not practicable. The granting of planning permission for such proposals will normally depend on the development providing a modest scale of

accommodation. The detailed guidance in Annex A of that document states (A49) that additional living space should be designed to (i) demonstrate dependency on the existing residential property; (ii) provide limited accommodation and shared facilities, for example kitchens; and (iii) be physically linked internally to the host property. "Ancillary uses that could practically and viably operate on their own will not be acceptable".



The applicant has failed to demonstrate that an extension of the existing dwelling to provide additional ancillary living space is not practicable. I noticed while on site that there is a double garage attached to the main dwelling. The range of accommodation and facilities proposed within the former stable (essentially a self-contained one bedroom flat) with no physical connection to the existing bungalow and outside the curtilage of the main dwelling, does not demonstrate dependency upon the main dwelling for day-to-day living, with no sharing of facilities within the host property. The additional accommodation could practically and viably operate on its own as an independent residential unit. The proposal therefore conflicts with Policy EXT 1.

Conclusion

Based on careful consideration of all the relevant material planning considerations including objections, it is contended that the proposal does not meet with policy.

Recommendation

Refusal

Reasons:

1. The proposal is contrary to the provisions of SPPS and 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. The proposal is located outwith the residential curtilage of No.33 Cluntagh Road.
2. The proposal is contrary to the Strategic Planning Policy Statement Policy (SPPS) and Policy CTY 4 of Planning Policy Statement 21, in that the building to be converted is not considered to be a locally important building.

Case Officer Signature

Date

Appointed Officer Signature

Date

Planning Committee Schedule of 11th April 2018

Planning reference: **LA07/2017/1668/F**

Proposal: **Conversion of Stables to domestic annex to be used as granny flat.**

Applicant: **Mr & Mrs Joseph Bell.**

Location **33 Cluntagh Road, Crossgar.**

Recommendation: **Refusal**

Reasons

1 The proposal is contrary to the provisions of SPPS and 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. The proposal is located outwith the residential curtilage of No.33 Cluntagh Road.

2 The proposal is contrary to the Strategic Planning Policy Statement Policy (SPPS) and Policy CTY 4 of Planning Policy Statement 21, in that the building to be converted is not considered to be a locally important building.

Site Description

The application site is located in the countryside as designated in the Ards and Down Area Plan 2015.

The site accommodates a bungalow, with pitched roof gable front return, a garage set to the RHS of the dwelling with the existing stable located on the remainder of the curtilage. A row of conifer screens the stable block from the dwelling.

The stable is traditional stone construction, and is divided internally by a partial wall forming two stables. The stable is accessed via the existing driveway and the area around the stable is fenced to provide an enclosed area for the horse when it was on site. The area around the stable is bounded by a wooden fence & a post and wire fence.

Planning Policies & Considerations

RDS

SPPS

PPS 21

PPS3

PPS7 (Addendum)

Ards & Down Area Plan 2015

DCAN 15

Consultations and Representations

The following consultations were carried out -

Transport NI

NI Water

No objections were received from any of the consultees and following notifications of the relevant neighbours and advertisement in the local press no objections to the proposal were received either.

Relevant Planning History

R/1979/0121 for a new dwelling

Assessment of reasons for Refusal

1 The proposal is contrary to the provisions of SPPS and 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. The proposal is located out- with the residential curtilage of No.33 Cluntagh Road.

The planning department in its report has indicated that the subject building lies outside the residential curtilage of the dwelling owned by the applicant. This has to be refuted as the entire lands under the applicants control form the curtilage (ref to aerial photograph in Officers report), please note the applicant does not control any other land other than those outlined in red in the submission to Planning Department.

It is the applicants understanding that this was the situation when their dwelling was approved under R/1979/0121 and nothing has changed since, the subject building existed then and has been maintained and looked after for

some 40 years and no CLUD would be necessary as the building always formed part of the curtilage and was maintained as part of the domestic buildings associated with the site.

Consideration of Policy EXT 1 of addendum to PPS7 is where this proposal is best assessed as the structure is not currently in use as a stable thus its re-use as an annex would secure its future while not enlarging the structure and allowing it to be used as a dependant unit on the main house.

There have been many garages and outbuildings utilised for this use and the current proposal for a domestic use allows the authority to control the use and not allow it to be abused. The authority could impose conditions on the use and association with the main dwelling.

2 The proposal is contrary to the Strategic Planning Policy Statement Policy (SPPS) and Policy CTY 4 of Planning Policy Statement 21, in that the building to be converted is not considered to be a locally important building.

The planning department have also assessed the application on the basis of PPS4 and do not consider the building to be regarded as being locally important for several reasons, it is not of historical or architectural worth to the local area and as such may now fall to abandonment and the applicants are keen to put the structure to a valuable use rather than let it fall into disrepair. It is our understanding that consideration under this policy would have necessitated the submission to have been made on a P1 form not a PHD form.

Overview

The applicant wish to preserve and enhance the existing structure and consider that it could be used as they get older and allow other family members to utilise the main dwelling.

There are many such conversions used for the same purpose all over the District thus allowing older structures to be preserved rather than becoming eyesores.

Conclusion

We would respectfully ask the Planning Committee to overturn this recommendation and grant Planning Permission for the development as applied for in compliance with the policy under which this proposal is submitted.

| | | | | |
|------------------------|--|--------------------|--|-------------------|
| ITEM NO | 24 | | | |
| APPLIC NO | R/2014/0499/RM | Reserved M | DATE VALID | 19/09/2014 |
| COUNCIL OPINION | APPROVAL | | | |
| APPLICANT | Dumore Construction c/o agent | AGENT | Gray Design Limited 5 Edward Street Newry BT35 6AN | |
| LOCATION | Lands adjacent to 8 Middle Tollymore Road And opposite 11 13 & 15 Middle Tollymore Road Newcastle | | | |
| PROPOSAL | Proposed housing development including alterations to existing junction on Middle Tollymore Road and Tollymore Road, 56 units in total. | | | |
| | (Amended site location plans received) | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | |
| | 146 | 1 | 0 | |
| | | | SUP Petitions | |
| | | | 0 | |
| | | | Addresses | Signatures |
| | | | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |



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agus an Dúin

**Newry, Mourne
and Down**
District Council

R/2014/0499/RM- ADDENDUM TO REPORT- MARCH 2018

The application was presented to the Planning Committee in April 2017 (26th) with a recommendation of Approval, where the Minutes of this meeting state the following:

Recommendation of Approval is agreed, on the proposal of Cllr Craig, seconded by Cllr Larkin, it was agreed to issue an approval, in principle, subject to conditions as outlined in the Development Officer Management Report, and subject to the Chief Planning Officer reporting back to the Planning Committee, confirming the position in regard to roads and visibility matters.

Following Aprils Committee meeting, the Planning Dept met with Transport NI officials in May 17 and the agent and applicant in June 17 to discuss and clarify roads matters as requested by the Planning Committee.

Following these meetings the agent submitted amended plans and correspondence in July and Nov 2017 extending the red line of the application site to include additional lands to the west side of the site, for visibility splay purposes. Re NN and consultation was undertaken with Transport NI.

The agent submitted further amended plans in Feb 2018 (1st Feb). These form the basis on which the proposal is now considered. A supporting letter from Donaldson Planning accompanied the drawings. The plans revert back to those stamped granted at outline stage, and omit the additional lands to the west side of the site.

A further round of neighbour notification was undertaken on receipt of these plans, with further comments sought from Transport NI.

A letter was also issued to Mr MacFerran who has commented on the application on a number of occasions and who owns the field to the western side of the application site, and confirming the submission of these further amended plans.

Transport NI have advised that they have no objections, on the basis the applicant is in control of all the lands required to construct the required visibility splays.

It is noted there is continued opposition to this proposal, in excess of 15 additional representations in opposition to the proposal have been received including from Mr

MacFerran and also properties along Middle Tollymore Rd, Meadowvale, and Strathern Manor since the original report was produced in March 2017.

This included a letter from Dominic McInerney Solicitor (June 2017) on behalf of the owner of no.12a Middle Tollymore Rd advising the lands outlined in red encroach upon lands owned by his client and that the developers are presuming ownership of a portion of the laneway serving this property. It is also noted a letter in support of the proposal was also received from a property in Meadowvale.

The matter raised in Dominic McInerney Solicitors letter was forwarded to the agent for comment who subsequently advised in writing (letter dated 7th Sept) that the proposal does not encroach upon lands to the private laneway which serves no.12 Middle Tollymore Rd.

(It is noted that as this is a Reserved Matters application there is no requirement in legislation for ownership certificates to be completed).

The amended plans, together with the site history, including previously stamped granted drawings and associated conditions, and representations received were discussed internally, it was concluded this Reserved Matters submission shall proceed with a recommendation of Approval, after having notified and updated the Planning Committee, as per their request from the April 2017 meeting.

Discussions concluded that while the owner of the adjoining field to the west side of the application site (Mr MacFerran) has erected a fence along the roadside of this field, thereby changing the circumstances on the ground, from when the Outline application was approved, the red line shall remain as per the Outline permission on both sides of the access with appropriate negative conditions attached to the decision notice requiring the imposition of the splays prior to commencement of any development. The correspondence regarding the ownership and access serving no.12 Middle Tollymore Rd was also noted.

Also, as all relevant parties have been notified with the most up-to-date plans, no-one can claim to be prejudiced.

The roads matters are the only aspects which have been amended since presenting the case to the Planning Committee in April 2017, the remainder of the development proposed remains unaltered.

While it is noted there has been significant interest and opposition to this proposal, with a total of almost 150 objections received, taking into account the above, Approval is now recommended subject to the imposition of necessary conditions.

Recommendation: Approval



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agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: R/2014/0499/RM

Date Received: Sept 2014.

Proposal: Reserved Matters (RM) is sought for a housing development of 56 units, on lands adjacent to 8 Middle Tollymore Road, and opposite no.11, 13, 15 Middle Tollymore Road, Newcastle, including alterations to existing Middle Tollymore Road and Tollymore Road junction.

Applicant: Dunmore Construction

Location:

The site is located within the development limits of Newcastle on land zoned for housing (NE12), as identified in the Ards and Down Area Plan 2015, whereby the Western boundary marks the edge of the development limit. These lands comprise a field at present.

This site is also within an AONB and Area of Constraint on Mineral Developments. It is noted the lands adjoining the site to the north, south and east are largely residential in character, comprising a mix of house types and sizes, while the lands to the west are rural in form. It is noted there is a TPO which affects trees along part of the eastern boundary.

Site Characteristics & Area Characteristics:

The site outlined in red extends to include a large field although also extends to include a portion of the Middle Tollymore Road and Tollymore Road, and the frontage of a number of properties. This site is located approx 200m from the junction with the Tollymore Road whereby this stretch of road rises from the Tollymore Road. The field comprising the application site is rectangular in shape, whereby the boundaries include post and wire fencing and planting. This field also extends to adjoin a number of properties.

Site History:

A history search has been carried out for the site and surrounds whereby it is noted there have been several previous approvals in the vicinity of the site, although the most relevant history observed includes:

R/2007/0706/O- Lands adjacent to 8 Middle Tollymore Road and opposite no.11, 13 and 15 Middle Tollymore Road, Outline planning application to establish residential use on the site, Outline, Approval, 05-10-11, Applicant: Dunmore Construction Ltd. (It is noted this Outline approval included 6 conditions, whereby both the site location plan and access details plan were stamp granted. It is also noted consultation was undertaken with a number of bodies as part of this application including with Roads Service (now Transport NI), NIW, Development Plan, WMU, and Rivers Agency. It is also noted there was significant local opposition to this Outline application). (Conditions included time limit, access and roads improvements, retention of vegetation along eastern boundary and provision of landscaping buffer along western boundary).

It is also noted there is a Tree Preservation Order (TPO) within the grounds of the Strathern development, which affects trees along the eastern boundary of the site. This is considered further below.

Objections & Representations

Well in excess of 100 representations in opposition to the proposal have been received to date (22-03-17). Currently approx 133 in total, from owner/occupiers of properties within Meadowvale, Meadowvale Avenue, Meadowvale Park, Mountnorris, Bryansford Road, Tollymore Road, Middle Tollymore Road, Mourne View, Castlewellan Road, Tollymore Cottages, Strathern Manor, The Courtyard (Strathern), The Lodge (Strathern), De Courcey Way (Dundrum), College Walk (Lurgan), Gordon Bell and Son Solicitors on behalf of resident, and also from Cllr W Clarke, Cllrs O'Boyle and former Cllr P Clarke, and also J Wells MLA, whereby the main issues raised include:

- the Tollymore Road and Middle Tollymore Road are already extremely hazardous regarding traffic, and this proposal will increase this issue and risk to pedestrians/cyclists/children and is unreasonable and unrealistic, and will be overwhelmed by this development. The Middle Tollymore Road is too narrow to sustain any increased traffic,
- ongoing flooding/drainage issues affecting the Middle Tollymore road would be compounded by this development,
- the dwellings are completely out of character/keeping with the surrounding area, and will have a serious effect on the light, privacy, pollution, noise of adjoining properties,
- high density of development, along this rural road,
- the developer is not in control of the lands required to be upgraded and to serve this development (to both sides of the site),
- development will adversely impact on the wildlife and bio-diversity of the area,
- the development will spoil the area,
- there is a public right of way adjacent to the development, and also a private right of way (access and laneway with wall) adjoining the site,
- the sewerage facilities will not be able to cope with the development/increased demand,
- the development will devalue existing properties,
- there is a TPO to the rear of the Strathern development,

- risk of vandalism when the building site is left unguarded and dwellings left idle if not sold,
- extent of neighbour notification,
- loss of views from the rear of the Mountnorris development,
- stress caused to health of residents during construction phase,
- a request for boundary fencing along the boundary with the Strathern development.

See file for full content of reps received as the above is only a summary of the main issues raised which are considered in the assessment below.

As outlined above a large volume of representations have been received regarding this proposal since it was received in 2014, whereby a number of issues have been raised. The above summary is only intended to grasp the main issues raised, and does not seek to provide an exhaustive list of each and every representation received, whereby similar issues have often been raised by more than 1 person.

Having account the extent of the red line and current practice neighbour notification was undertaken with a number of properties along Middle Tollymore Road, Tollymore Road, Mountnorris, Meadowvale, and Strathern development (including The Lodge and Courtyard), on a number of occasions and most recently in Dec 2016 (Following receipt of amended plans), while it was also advertised in the local press initially when first received in Oct 2014, and again in June 2016 (following receipt of an amended description).

It is acknowledged some properties within the Strathern development (The Courtyard) were not initially notified however this was subsequently corrected and carried out in June 2016, thus these properties have not been prejudiced. Current guidance is clear as to what properties are entitled to be notified as part of any application.

Consultations:

Having account the nature of this proposal, and constraints and zonings of the site and area, and representations received consultation was undertaken with a number of bodies including Transport NI, NI Water, NIEA, Rivers Agency as part of this application, whereby it is considered no objections are offered in principle.

(Since receipt of this application in 2014 consultation has been undertaken with some of the bodies on more than one occasion).

It is considered extensive consultation has been undertaken as part of this application, while a determination was also undertaken as to whether an EIA was required. In addition a Habitats Regulations Assessment screening exercise was also undertaken, while a Bio Diversity Checklist and Drainage Assessment were also requested and submitted to ensure all potential constraints and issues had been identified and considered. As outlined above NIEA were also consulted and have offered no objections.

It has been concluded an EIA is not required, while no further information/surveys are required following receipt and consideration of the completed Bio Diversity Checklist and associated supporting information, to assess or determine this application.

It is noted there have been concerns raised regarding historical flooding, drainage and sewerage issues along the Middle Tollymore Road in particular. Consultation was undertaken with NIW, NIEA and Rivers Agency as part of the processing of this case who provide expert advice and guidance and have offered no objections to the proposals. As such it is considered the proposals do not offend PPS11 and PPS15.

Policy- RDS, Ards & Down Plan 2015, SPPS, PPS2, PPS3, PPS6, PPS7 and Addendum, PPS8, PPS11, PPS15, PPS21 and supplementary guidance

As outlined above site is located within the development limits of Newcastle on land zoned for housing (NE12), as identified in the Ards and Down Area Plan 2015, whereby the Western boundary marks the edge of the development limit.

Zoning NE12 (2.36 hectares at Middle Tollymore Road) includes a number of key design considerations, including housing density (between 20-25 dwellings per hectare), access and road improvements, boundary planting and the requirement of interim sewage disposal measures until the WWTW for Newcastle are upgraded.

Assessment

It is clear from the history outlined above there is a previous extant Outline permission for housing on this site (R/2007/0706/O). This Outline application was approved in Oct 2011, while this associated RM application was received in Sept 2014 (within 3 years), thus is valid.

This Outline application included some 6 conditions as outlined above, whereby the site location plan and access details plan were stamped granted as part of this Outline permission. (Conditions are summarised above). No site layout plan was approved at Outline stage.

It is noted the red line of this RM submission is the same as that stamped granted at Outline stage.

As outlined above this application seeks Reserved Matters approval for a housing development of 56 units.

(It is noted a number of amendments have been made to this application since it was submitted in 2014, and was originally for a total of 58 units.

This report deals with the latest set of revised plans including the site layout plan and access details date stamped 20th Dec 2016).

This is a Reserved Matters application which is associated with an approved Outline permission, whereby the Area Plan zonings have also been noted. As such the principle of development and housing has already been tested, accepted and established on this site, thus in being consistent there can be no objection in principle to housing on this site.

The lands comprising the application site are located along the Middle Tollymore Road and extend to include 2 fields and a portion of the road extending down to the junction with the Tollymore Road.

These lands measure approx 2.4 hectares and extend to form the edge of the settlement development limit of Newcastle as outlined in the Area Plan.

As outlined above these lands are zoned for housing (NE12) whereby the zoning includes some 7 key design considerations, which are summarised above.

The density of development on this site is considered to meet the density requirements of the area plan, whereby it is noted the development proposed includes a mix of detached and semi-detached dwellings.

Having account the existing character of the Middle Tollymore Road, Tollymore Road and adjoining developments, it is considered the layout of the development proposed including plot sizes does not offend the existing the existing character of the area, and as outlined above, complies with the density requirement of this zoning.

The site will access on to the Middle Tollymore Road, whereby improvements are proposed to both the Middle Tollymore Road and junction with the Tollymore Road including new footpath along the Middle Tollymore Road, while improved sight visibility splays are proposed at the junction with the Tollymore Road.

The layout of development within the site also ensures units will front onto the internal access road serving the development while those along the frontage will also provide a frontage to the Middle Tollymore Road. Also, the site layout plan indicates existing boundary planting is to be retained, while a buffer of planting (outside the curtilage of any unit) has also been provided along the boundary which forms the edge of the settlement development limit. Newcastle WWTW have also recently been upgraded, whereby it is noted NI Water offer no objections to this proposal. As such it is considered the proposal does not offend the Area Plan zoning and requirements.

It is noted one of the objectors who owns adjoining lands to the west side (Bryansford side) of the site has made a number of representations regarding the access and associated visibility splays and the need for part of his lands to serve the development.

While it is noted the owner of the adjoining lands has recently erected a fence along the roadside, having account the extent of the red line at Outline stage it is considered no lands are required to the west side of the site, whereby the provision of a footpath along the site frontage is sufficient, in line with the previous Outline. The RS1 of the Outline permission has also been noted.

Following extensive consultation and the submission of a number of amendments, it is noted Transport NI are now content with the proposals subject to conditions. The owner of the adjoining lands submitted an email with attachments on 20th March 2017 regarding the access and visibility splays and new fence which has been erected on this side of the development, and requested this be forwarded to TNI for comment.

This issue was discussed internally, and in light of the above the Planning Dept has concluded there is no need to forward this to TNI for comment, as nothing new has been raised which impacts this planning application, and the Planning Dept are fully aware of the issues at hand.

As outlined above improvements are proposed to the Middle Tollymore Road with the provision of a new footpath, while improvements are also proposed to the junction with the Tollymore Road to improve visibility. As this is a Reserved Matters application it is not necessary to completed a Certificate of ownership, whereby the onus is now on the applicant to ensure he owns/controls the required lands to carry

out this development. The issue of the control/ownership of the required lands associated with this applicant was raised with the agent on several occasions, who was made aware that in the event permission is granted there would likely be pre-development commencement conditions regarding the access and roads improvements, thus it is crucial the applicant owns/controls the required lands to carry out this development in its entirety.

The provision of a footpath along the Middle Tollymore Road will improve the safety for all pedestrians using this road.

A number of residents have advised this Middle Tollymore Road is a rural road, however as outlined above this site is zoned for housing. This site extends to form the edge of the settlement development limit, thus care is required regarding its frontage to the road and how it deals with and treats the boundary with the adjoining countryside. This is considered further below.

As stated above the development includes a mix of detached and semi-detached dwellings with a number of house types.

Again a number of these house types have been amended as the case has progressed. All units within this development are accessed via the new entrance road which serves the development, with no individual entrances on to the Middle Tollymore Road. This entrance road is centrally located and includes 1 detached dwelling to either side of this entrance road.

These detached dwellings are 1 1/2 storey gate lodge type dwellings which provide the frontage to the site, whereby it is considered the design, size, and siting respect the existing character and building line along the Middle Tollymore Road. The remaining units within the development include a mix of house types and sizes, a number of which have been amended, particularly those which back onto and adjoin the development of Mountnorris. These units have been reduced in size to reduce the potential impact on adjoining properties.

The levels proposed respect existing, whereby it is considered the layout and units, will not result in any unacceptable impact on the amenity of any adjoining property or any inter-relationship issues between units, in terms of unacceptable overlooking, overshadowing, or dominant impact in this urban environment, due to the separation distances and spacing between units and the respective boundaries.

Each unit will also have its own in-curtilage parking and area of private amenity space to the rear. 2 pockets of communal open space have also been provided for this development as per the requirements of PPS8 and SPPS, and which are considered to be sufficient in this instance.

It is also noted all existing planting/vegetation along the eastern boundary is to be retained and reinforced/strengthened, while the protected trees are also to be retained and protected whereby the development as amended has been kept clear of these trees. It is also proposed to erect protective fencing around the TPO trees on the side of the application site during construction stage. A belt of buffer planting is also to be provided along the western boundary of the site, which forms the edge of the settlement development limit. This belt of planting is located outside the defined curtilage of any unit and will be approx 8m wide, thus providing a suitable boundary buffer and assist in integrating the site to ensure it does not harm or spoil the adjoining countryside and AONB.

While it is noted there is significant opposition to this proposal, both for this Reserved Matters application, and also during the processing of the previous Outline

permission, it is considered the development as proposed complies with the requirements of the area plan and applicable policy test, and will not result in any unacceptable impact or harm the amenity of any existing residents/properties or character of the area, for the reasons outlined above, and there are no grounds to sustain a refusal. As outlined above this is a Reserved Matters submission associated to a previous extant Outline permission whereby the principle of development and associated infrastructure works has already been established. It is acknowledged there may be some noise/dust and associated nuisances during construction phase however provided the applicant/developer applies best practice including only carrying out work during normal working hours, this should limit any potential nuisances.

As such Approval is recommended subject to conditions.

Recommendation: Approval.

(Conditions to include time limit, roads requirements (including pre-commencement conditions), retention of planting, proposed planting, removal of permitted development rights, hours of work).



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**Newry, Mourne
and Down**
District Council

Application Reference: R/2014/0499/RM

Date Received: Sept 2014.

Proposal: Reserved Matters (RM) is sought for a housing development of 56 units, on lands adjacent to 8 Middle Tollymore Road, and opposite no.11, 13, 15 Middle Tollymore Road, Newcastle, including alterations to existing Middle Tollymore Road and Tollymore Road junction.

Applicant: Dunmore Construction

Location:

The site is located within the development limits of Newcastle on land zoned for housing (NE12), as identified in the Ards and Down Area Plan 2015, whereby the Western boundary marks the edge of the development limit. These lands comprise a field at present.

This site is also within an AONB and Area of Constraint on Mineral Developments. It is noted the lands adjoining the site to the north, south and east are largely residential in character, comprising a mix of house types and sizes, while the lands to the west are rural in form. It is noted there is a TPO which affects trees along part of the eastern boundary.

Site Characteristics & Area Characteristics:

The site outlined in red extends to include a large field although also extends to include a portion of the Middle Tollymore Road and Tollymore Road, and the frontage of a number of properties. This site is located approx 200m from the junction with the Tollymore Road whereby this stretch of road rises from the Tollymore Road. The field comprising the application site is rectangular in shape, whereby the boundaries include post and wire fencing and planting. This field also extends to adjoin a number of properties.

Site History:

A history search has been carried out for the site and surrounds whereby it is noted there have been several previous approvals in the vicinity of the site, although the most relevant history observed includes:

R/2007/0706/O- Lands adjacent to 8 Middle Tollymore Road and opposite no.11, 13 and 15 Middle Tollymore Road, Outline planning application to establish residential use on the site, Outline, Approval, 05-10-11, Applicant: Dunmore Construction Ltd. (It is noted this Outline approval included 6 conditions, whereby both the site location plan and access details plan were stamp granted. It is also noted consultation was undertaken with a number of bodies as part of this application including with Roads Service (now Transport NI), NIW, Development Plan, WMU, and Rivers Agency. It is also noted there was significant local opposition to this Outline application). (Conditions included time limit, access and roads improvements, retention of vegetation along eastern boundary and provision of landscaping buffer along western boundary).

It is also noted there is a Tree Preservation Order (TPO) within the grounds of the Strathern development, which affects trees along the eastern boundary of the site. This is considered further below.

Objections & Representations

Well in excess of 100 representations in opposition to the proposal have been received to date (22-03-17). Currently approx 133 in total), from owner/occupiers of properties within Meadowvale, Meadowvale Avenue, Meadowvale Park, Mountnorris, Bryansford Road, Tollymore Road, Middle Tollymore Road, Mourne View, Castlewellan Road, Tollymore Cottages, Strathern Manor, The Courtyard (Strathern), The Lodge (Strathern), De Courcey Way (Dundrum), College Walk (Lurgan), Gordon Bell and Son Solicitors on behalf of resident, and also from Cllr W Clarke, Cllrs O'Boyle and former Cllr P Clarke, and also J Wells MLA, whereby the main issues raised include:

- the Tollymore Road and Middle Tollymore Road are already extremely hazardous regarding traffic, and this proposal will increase this issue and risk to pedestrians/cyclists/children and is unreasonable and unrealistic, and will be overwhelmed by this development. The Middle Tollymore Road is too narrow to sustain any increased traffic,
- ongoing flooding/drainage issues affecting the Middle Tollymore road would be compounded by this development,
- the dwellings are completely out of character/keeping with the surrounding area, and will have a serious effect on the light, privacy, pollution, noise of adjoining properties,
- high density of development, along this rural road,
- the developer is not in control of the lands required to be upgraded and to serve this development (to both sides of the site),
- development will adversely impact on the wildlife and bio-diversity of the area,
- the development will spoil the area,
- there is a public right of way adjacent to the development, and also a private right of way (access and laneway with wall) adjoining the site,
- the sewerage facilities will not be able to cope with the development/increased demand,
- the development will devalue existing properties,
- there is a TPO to the rear of the Strathern development,

- risk of vandalism when the building site is left unguarded and dwellings left idle if not sold,
- extent of neighbour notification,
- loss of views from the rear of the Mountnorris development,
- stress caused to health of residents during construction phase,
- a request for boundary fencing along the boundary with the Strathern development.

See file for full content of reps received as the above is only a summary of the main issues raised which are considered in the assessment below.

As outlined above a large volume of representations have been received regarding this proposal since it was received in 2014, whereby a number of issues have been raised. The above summary is only intended to grasp the main issues raised, and does not seek to provide an exhaustive list of each and every representation received, whereby similar issues have often been raised by more than 1 person.

Having account the extent of the red line and current practice neighbour notification was undertaken with a number of properties along Middle Tollymore Road, Tollymore Road, Mountnorris, Meadowvale, and Strathern development (including The Lodge and Courtyard), on a number of occasions and most recently in Dec 2016 (Following receipt of amended plans), while it was also advertised in the local press initially when first received in Oct 2014, and again in June 2016 (following receipt of an amended description).

It is acknowledged some properties within the Strathern development (The Courtyard) were not initially notified however this was subsequently corrected and carried out in June 2016, thus these properties have not been prejudiced. Current guidance is clear as to what properties are entitled to be notified as part of any application.

Consultations:

Having account the nature of this proposal, and constraints and zonings of the site and area, and representations received consultation was undertaken with a number of bodies including Transport NI, NI Water, NIEA, Rivers Agency as part of this application, whereby it is considered no objections are offered in principle.

(Since receipt of this application in 2014 consultation has been undertaken with some of the bodies on more than one occasion).

It is considered extensive consultation has been undertaken as part of this application, while a determination was also undertaken as to whether an EIA was required. In addition a Habitats Regulations Assessment screening exercise was also undertaken, while a Bio Diversity Checklist and Drainage Assessment were also requested and submitted to ensure all potential constraints and issues had been identified and considered. As outlined above NIEA were also consulted and have offered no objections.

It has been concluded an EIA is not required, while no further information/surveys are required following receipt and consideration of the completed Bio Diversity Checklist and associated supporting information, to assess or determine this application.

It is noted there have been concerns raised regarding historical flooding, drainage and sewerage issues along the Middle Tollymore Road in particular. Consultation was undertaken with NIW, NIEA and Rivers Agency as part of the processing of this case who provide expert advice and guidance and have offered no objections to the proposals. As such it is considered the proposals do not offend PPS11 and PPS15.

Policy- RDS, Ards & Down Plan 2015, SPPS, PPS2, PPS3, PPS6, PPS7 and Addendum, PPS8, PPS11, PPS15, PPS21 and supplementary guidance

As outlined above site is located within the development limits of Newcastle on land zoned for housing (NE12), as identified in the Ards and Down Area Plan 2015, whereby the Western boundary marks the edge of the development limit.

Zoning NE12 (2.36 hectares at Middle Tollymore Road) includes a number of key design considerations, including housing density (between 20-25 dwellings per hectare), access and road improvements, boundary planting and the requirement of interim sewage disposal measures until the WWTW for Newcastle are upgraded.

Assessment

It is clear from the history outlined above there is a previous extant Outline permission for housing on this site (R/2007/0706/O). This Outline application was approved in Oct 2011, while this associated RM application was received in Sept 2014 (within 3 years), thus is valid.

This Outline application included some 6 conditions as outlined above, whereby the site location plan and access details plan were stamped granted as part of this Outline permission. (Conditions are summarised above). No site layout plan was approved at Outline stage.

It is noted the red line of this RM submission is the same as that stamped granted at Outline stage.

As outlined above this application seeks Reserved Matters approval for a housing development of 56 units.

(It is noted a number of amendments have been made to this application since it was submitted in 2014, and was originally for a total of 58 units.

This report deals with the latest set of revised plans including the site layout plan and access details date stamped 20th Dec 2016).

This is a Reserved Matters application which is associated with an approved Outline permission, whereby the Area Plan zonings have also been noted. As such the principle of development and housing has already been tested, accepted and established on this site, thus in being consistent there can be no objection in principle to housing on this site.

The lands comprising the application site are located along the Middle Tollymore Road and extend to include 2 fields and a portion of the road extending down to the junction with the Tollymore Road.

These lands measure approx 2.4 hectares and extend to form the edge of the settlement development limit of Newcastle as outlined in the Area Plan.

As outlined above these lands are zoned for housing (NE12) whereby the zoning includes some 7 key design considerations, which are summarised above.

The density of development on this site is considered to meet the density requirements of the area plan, whereby it is noted the development proposed includes a mix of detached and semi-detached dwellings.

Having account the existing character of the Middle Tollymore Road, Tollymore Road and adjoining developments, it is considered the layout of the development proposed including plot sizes does not offend the existing the existing character of the area, and as outlined above, complies with the density requirement of this zoning.

The site will access on to the Middle Tollymore Road, whereby improvements are proposed to both the Middle Tollymore Road and junction with the Tollymore Road including new footpath along the Middle Tollymore Road, while improved sight visibility splays are proposed at the junction with the Tollymore Road.

The layout of development within the site also ensures units will front onto the internal access road serving the development while those along the frontage will also provide a frontage to the Middle Tollymore Road. Also, the site layout plan indicates existing boundary planting is to be retained, while a buffer of planting (outside the curtilage of any unit) has also been provided along the boundary which forms the edge of the settlement development limit. Newcastle WWTW have also recently been upgraded, whereby it is noted NI Water offer no objections to this proposal. As such it is considered the proposal does not offend the Area Plan zoning and requirements.

It is noted one of the objectors who owns adjoining lands to the west side (Bryansford side) of the site has made a number of representations regarding the access and associated visibility splays and the need for part of his lands to serve the development.

While it is noted the owner of the adjoining lands has recently erected a fence along the roadside, having account the extent of the red line at Outline stage it is considered no lands are required to the west side of the site, whereby the provision of a footpath along the site frontage is sufficient, in line with the previous Outline. The RS1 of the Outline permission has also been noted.

Following extensive consultation and the submission of a number of amendments, it is noted Transport NI are now content with the proposals subject to conditions.

The owner of the adjoining lands submitted an email with attachments on 20th March 2017 regarding the access and visibility splays and new fence which has been erected on this side of the development, and requested this be forwarded to TNI for comment.

This issue was discussed internally, and in light of the above the Planning Dept has concluded there is no need to forward this to TNI for comment, as nothing new has been raised which impacts this planning application, and the Planning Dept are fully aware of the issues at hand.

As outlined above improvements are proposed to the Middle Tollymore Road with the provision of a new footpath, while improvements are also proposed to the junction with the Tollymore Road to improve visibility. As this is a Reserved Matters application it is not necessary to completed a Certificate of ownership, whereby the onus is now on the applicant to ensure he owns/controls the required lands to carry

out this development. The issue of the control/ownership of the required lands associated with this applicant was raised with the agent on several occasions, who was made aware that in the event permission is granted there would likely be pre-development commencement conditions regarding the access and roads improvements, thus it is crucial the applicant owns/controls the required lands to carry out this development in its entirety.

The provision of a footpath along the Middle Tollymore Road will improve the safety for all pedestrians using this road.

A number of residents have advised this Middle Tollymore Road is a rural road, however as outlined above this site is zoned for housing. This site extends to form the edge of the settlement development limit, thus care is required regarding its frontage to the road and how it deals with and treats the boundary with the adjoining countryside. This is considered further below.

As stated above the development includes a mix of detached and semi-detached dwellings with a number of house types.

Again a number of these house types have been amended as the case has progressed. All units within this development are accessed via the new entrance road which serves the development, with no individual entrances on to the Middle Tollymore Road. This entrance road is centrally located and includes 1 detached dwelling to either side of this entrance road.

These detached dwellings are 1 1/2 storey gate lodge type dwellings which provide the frontage to the site, whereby it is considered the design, size, and siting respect the existing character and building line along the Middle Tollymore Road. The remaining units within the development include a mix of house types and sizes, a number of which have been amended, particularly those which back onto and adjoin the development of Mountnorris. These units have been reduced in size to reduce the potential impact on adjoining properties.

The levels proposed respect existing, whereby it is considered the layout and units, will not result in any unacceptable impact on the amenity of any adjoining property or any inter-relationship issues between units, in terms of unacceptable overlooking, overshadowing, or dominant impact in this urban environment, due to the separation distances and spacing between units and the respective boundaries.

Each unit will also have its own in-curtilage parking and area of private amenity space to the rear. 2 pockets of communal open space have also been provided for this development as per the requirements of PPS8 and SPPS, and which are considered to be sufficient in this instance.

It is also noted all existing planting/vegetation along the eastern boundary is to be retained and reinforced/strengthened, while the protected trees are also to be retained and protected whereby the development as amended has been kept clear of these trees. It is also proposed to erect protective fencing around the TPO trees on the side of the application site during construction stage. A belt of buffer planting is also to be provided along the western boundary of the site, which forms the edge of the settlement development limit. This belt of planting is located outside the defined curtilage of any unit and will be approx 8m wide, thus providing a suitable boundary buffer and assist in integrating the site to ensure it does not harm or spoil the adjoining countryside and AONB.

While it is noted there is significant opposition to this proposal, both for this Reserved Matters application, and also during the processing of the previous Outline

permission, it is considered the development as proposed complies with the requirements of the area plan and applicable policy test, and will not result in any unacceptable impact or harm the amenity of any existing residents/properties or character of the area, for the reasons outlined above, and there are no grounds to sustain a refusal. As outlined above this is a Reserved Matters submission associated to a previous extant Outline permission whereby the principle of development and associated infrastructure works has already been established. It is acknowledged there may be some noise/dust and associated nuisances during construction phase however provided the applicant/developer applies best practice including only carrying out work during normal working hours, this should limit any potential nuisances.

As such Approval is recommended subject to conditions.

Recommendation: Approval.

(Conditions to include time limit, roads requirements (including pre-commencement conditions), retention of planting, proposed planting, removal of permitted development rights, hours of work).

Ciaran Mac Ferran
105 Bryansford Road
Newcastle
BT33 0LF

4 April 2018

Planning Committee
Newry, Mourne and Down District Council
Monaghan Row
Newry

Dear All

Planning Approval granted under R/2007/0706/O and planning application currently under consideration under R/2014/0499/RM.

Approximately 1 year ago I urged you the committee to delay issuing the approval on this application until the developer had complied fully with a very important condition on the outline planning permission which related to visibility at the new access and road safety.

The committee deferred the application to allow the developer to provide drawings which comply with the relative condition.

Since then, sufficient drawings have been submitted to address this issue.

Transport NI have advised that they have no objections to the most recently submitted drawings on the basis

"the developer is in control of all the lands required to construct the required visibility splays".

I can clearly state that the developer **is not in control** of all the lands required to provide the sight splays. I have confirmed this in writing to the planning department on several occasions.

Despite this, the developer has continually outlined MY LAND in red as part of the application site.

Donaldson Planning have recently began to advise the developer. They have suggested that the application could be approved with a negative condition which requires the visibility splays to be provided/constructed before any other works takes place.

The Ministry of Housing, Communities & Local Government published a document on 6 March 2014 which provides guidance on the *"Use of planning conditions"*.

One of the topics discussed is entitled

"When can conditions be used relating to land not in control of the applicant?"

The advice states that,

"Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission."

If this application were to be approved, the development would need to commence within 2 years of the approval date.

There is no prospect at all of me providing the land required to construct the sight splays within 2 years of the grant of reserved matters permission.

Against this background, the imposition of a negative condition in relation to visibility splays as suggested by Mr Donaldson would be totally inappropriate, indeed unlawful.

Once again I must advise the committee that should this application be approved while the developer is not in control of the lands required, I will be seeking to judicially review the Council's actions in the High Court and seek to recover the full costs associated with the proceedings from the Council.

Ciaran Mac Ferran.



1. Home (<https://www.gov.uk/>)

Guidance

Use of planning conditions

Sets out expectations on use of conditions on planning decisions.

Published 6 March 2014

From:

Ministry of Housing, Communities & Local Government

(<https://www.gov.uk/government/organisations/ministry-of-housing-communities-and-local-government>)

Contents

- Why and how are conditions imposed?
- Application of the 6 tests in National Planning Policy Framework policy
- What approach should be taken to imposing conditions?
- Conditions relating to time limits
- Discharging and modifying conditions once planning permission is granted

Why and how are conditions imposed?

Why are conditions imposed on a planning permission?

Where the circumstances of the application make this necessary and the 6 tests will be met, conditions can be imposed to ensure that development proceeds in a certain sequence. Conditions may also be used to ensure that a particular element in a scheme is provided by/at a particular stage or before the scheme is brought into use.

It is important that the local planning authority and the applicant discuss and seek to agree any such conditions before planning permission is granted. This is in order to understand how the requirements would fit into the planned sequence for developing the site, impacts on viability, and whether the tests of reasonableness and necessity will be met.

See guidance on multi-stage consents and Environmental Impact Assessment (<https://www.gov.uk/guidance/environmental-impact-assessment#subsequent-applications>).

Paragraph: 008 Reference ID: 21a-008-20140306

Revision date: 06 03 2014

When can conditions be used relating to land not in control of the applicant?

Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. It may be possible to achieve a similar result using a condition worded in a negative form (a Grampian condition) – ie prohibiting development authorised by the planning permission or other aspects linked to the planning permission (eg occupation of premises) until a specified action has been taken (such as the

provision of supporting infrastructure). Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.

Where the land or specified action in question is within the control of the local authority determining the application (for example, as highway authority where supporting infrastructure is required) the authority should be able to present clear evidence that this test will be met before the condition is imposed.

Paragraph: 009 Reference ID: 21a-009-20140306

Revision date: 06 03 2014

Is it possible to use a condition to require an applicant to enter into a planning obligation or an agreement under other powers?

Planning permission should not be granted subject to a positively worded condition that requires the applicant to enter into a planning obligation under section 106 of the Town and Country Planning Act 1990 (<http://www.legislation.gov.uk/ukpga/1990/8/section/106>) or an agreement under other powers. Such a condition is unlikely to pass the test of enforceability.

A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed.

Liam Hannaway
Chief Executive



Comhairle Ceantair
**an Iúir, Mhúrn
agus an Dúin**
**Newry, Mourne
and Down**
District Council

Audio Recording Consent Form

Please indicate if you agree to your speech/any submission made by you being recorded by Newry Mourne and Down District Council by marking 'X' in the appropriate box:

I agree to being recorded at the Committee Meeting

I **do not** agree to being recorded at the Committee Meeting

Planning Application No.
R/2014/10499/1 RM

Date of Planning Committee Meeting
11 - APRIL - 2018

Signature: *Liam Hannaway, Ciaran MacFerran*

Organisation:

Date: *3 - APRIL - 2018*

Please return to democratic.services@nmandd.org before the date of your presentation

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Newry Office
O'Hagan House
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APPLICATION R/2014/0499/RM**DUNMORE CONSTRUCTION LTD - MIDDLE TOLLYMORE ROAD, NEWCASTLE****SUBMISSION TO COUNCIL FOR APRIL PLANNING COMMITTEE**
-----**1. Background**

Outline permission for housing has been granted on this site under R/2007/0706/O. This firmly establishes the principle of housing development at this location.

A neighbouring landowner has recently erected a fence which attempts to restrict the available visibility from the access to the proposed housing. He has also objected to the reserved matters application and offered to enter into a commercial agreement to make land available to the applicant.

2. Consideration

The need to ensure road safety for the occupants of the housing development is accepted. Regardless of the objection however this can be secured by simply imposing a negative condition to the effect that appropriate visibility splays should be provided. There is extensive precedent for imposition of negative conditions. Furthermore, it is not necessary to own or control such land for such conditions to be lawful, so any dispute over ownership of splays is irrelevant to the decision making process.

The key legal authority for negative conditions is the English Court of Appeal decision on *Merritt v Secretary of State for Environment, Trade and the Regions*. This decision follows the case of *British Railways Board v Secretary of State for the Environment*. Both cases establish that it is valid to impose a negative condition even if there is no reasonable prospect of its fulfilment within the lifetime of the permission. In the current case on Middle Tollymore Road, whilst there may presently be a difference of opinion between the applicant and an objector, the issue is clearly a commercial one, upon which it would not be proper for the planning authority to adjudicate.

The objector is clearly not prejudiced by this approach. He has been aware of the RM submission for some time, and has been in communication with the applicant.

3. Conclusion

Overall, it is a straightforward matter to grant reserved matters approval, subject to an access condition. In this way road safety will be protected, and no one will be prejudiced.

David Donaldson BSc Hons MRTPI**April 2018**

| | | | | |
|------------------------|---|--------------------|----------------------|---|
| ITEM NO | 3 | | | |
| APPLIC NO | LA07/2016/1407/F | Full | DATE VALID | 24/10/2016 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | Richard Newell 75A Glassdrumman Road Annalong BT34 4QJ | | AGENT | Glyn Mitchell Architectural Design 139 Ballinran Road Kilkeel BT34 4JB |
| LOCATION | 75A Glassdrumman Road Annalong Co. Down | | | |
| PROPOSAL | Proposed extension of curtilage of existing dwelling house and retention of existing Domestic Boat House and Yard | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 1 | 0 | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |

- 1 The proposal is contrary to the Addendum to PPS7: Residential Extensions and Alterations, Policy EXT 1 criteria A in that the proposal is not sympathetic with the built form and appearance of the existing property, and is not located within the established curtilage of the dwelling, and if granted would detract from the appearance and character of the surrounding area.
- 2 The proposal is contrary to the Banbridge, Newry and Mourne Area Plan 2015, in that the siting of the building could compromise the delivery of housing development on zoning AN 02.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

Newry, Mourne
and Down
District Council

Application Reference: LA07/2016/1407/F

Date Received: 07.11.2016

Proposal: Proposed extension of curtilage of existing dwelling house and retention of existing Domestic Boat House and Yard.

Location: 75A Glassdrumman Road, Annalong

Site Characteristics & Area Characteristics:

The application site which is 75A Glassdrumman Road, Annalong is a smooth rendered two story dwelling. The site has a concrete yard to the rear with a relatively large sized front garden. The site can be accessed of the Glassdrumman Road with the driveway located along the northern boundary continuing through to the rear of the site. The existing curtilage boundaries consist of 1.8m high wall/fence along the rear boundary and southern boundary shared with no.75 Glassdrumman Road. The northern boundary shared with no.77 consists of a mixture of fencing and mature trees to the rear with 1m high wall along the front. The front boundary has a small wall.

The proposed extension of curtilage is located in an agricultural field to the rear of dwelling where the outbuilding/ boathouse is located. At present there are no defined boundaries. The applicant has a number boats stored in the back yard within the curtilage and in the agricultural field.

The proposed site is located within the settlement development limits of Annalong and within land zoned as housing 'AN 02- East of Mullartown Park' as designated within the Banbridge, Newry and Mourne Area Plan 2015.



Location of boathouse and proposed extension of curtilage

Planning Policies & Material Considerations:

Regional Development Strategy
 Banbridge, Newry and Mourne Area Plan (2015)
 Strategic Planning Policy Statement of Northern Ireland

Planning Policy Statements

PPS 7 addendum – Residential Extension and Alterations:
 EXT 1 Residential extensions and Alterations
 PPS 6- Planning, Archaeology and the Built Heritage.

Site History:

P/2008/0009/F

Erection of Replacement Dwelling and new Dwelling, each with attached Garage.
 Permission Granted: 15.08.2008

P/1989/0204

Site for replacement dwelling
 Permission Granted: 13.04.1989

The proposed extension of curtilage and boathouse is located within land zoned for housing which has planning history;

P/2008/1182/O

Housing development and associated site works - renewal of outline approval
 P/2005/0219/O
 Permission Granted: 14.11.2008

P/2005/0219/O

Site for housing development and associated site works.

Permission Granted: 01.10.2005

Consultations:

Historic Environment Division (HED) - No concerns regarding the proposed development.

NIEA- No concerns regarding the proposed development subject to conditions.

Objections & Representations

14 Neighbours notified on 04.11.2016 and was advertised on 31.10. 2017. One letter of objection received from the owners of no.77 Glasdrumman Road.

Consideration and Assessment:

Proposed extension of curtilage of existing dwelling house and retention of existing Domestic Boat House and Yard. According to the SPPS, proposed development which accords with the development plan should be approved and development which conflicts with an up-to-date plan should be refused, unless material considerations indicate otherwise.

The site is located within the settlement development limits of Annalong and within land zoned as housing 'AN 02- East of Mullartown Park' as designated within the Banbridge, Newry and Mourne Area Plan 2015. While the proposed shed is associated with existing housing, it could potentially compromise the delivery of new housing on the wider zoned site. The proposal is therefore consider contrary to zoning AN02 in the Area Plan.

Policy EXT 1 of the Addendum to PPS7 will permit a proposal to extend or alter a residential property where all of the following criteria are met:

- (a) The scale, massing, design and external materials of the proposal are sympathetic with he built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;**

Scale/ Massing

The proposed boathouse to be retained measures 9.9m x 6.9m and which 4.2m high subordinate in scale to the existing property.

Design and siting

In terms of design, the boathouse is constructed with green Tin with a large roller shutter door along the front elevation with a single door along the side elevation.

The addendum to PPS7 requires external finishes to use similar or complementary materials to those of the existing property. Officers consider the green Tin finish not to be read as ancillary and is not sympathetic with the built form and appearance of the existing property and if granted would detract from the appearance and character of the surrounding area. It would be more suited to a commercial/ industrial/ agricultural building.

The agent was asked to reconsider the siting of the boathouse to be within the existing curtilage. No evidence has been submitted to demonstrate the need for the boathouse outside the existing curtilage. The existing yard to the rear is approx. 298sq m with the boathouse approx. 68sq m. Officers consider that the existing curtilage could easily accommodate a boathouse and have sufficient space for recreational, domestic uses and parking and manoeuvring of vehicles.

(b) The proposal does not unduly affect the privacy or amenity of neighbouring residents;

Officers consider that there are no issues of overlooking, overshadowing or dominance as a result of the development. One objection letter was received from the owners of 77 Glasdrumman Road regarding right of way and the existing 'large corrugated shed' having been constructed without planning permission.

(c) The proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality;

There would no loss of or damage to trees on landscape features as a result of this proposal.

(d) Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles

The proposal is for extension of existing curtilage. It was determined that if the boathouse was relocated within the existing curtilage sufficient space remains within the curtilage of the property for recreational and domestic purposes.

Recommendation:

Refusal

Refusal Reasons:

1. The proposal is contrary to the Addendum to PPS 7: Residential Extensions and Alterations, Policy EXT 1 criteria A in that the proposal is not sympathetic with the built form and appearance of the existing property, and is not located within the established curtilage of the dwelling, and if granted would detract from the appearance and character of the surrounding area.
2. The proposal is contrary to the Banbridge, Newry and Mourne Area Plan 2015, in that the siting of the building could compromise the delivery of housing development on zoning AN 02.

| |
|-------------------------------------|
| Case Officer Signature: |
| Date: |
| Appointed Officer Signature: |
| Date: |

Our Ref: 16/82

Your Ref: LA07/2016/1407/F

F.A.O. Ms. Jacqueline McParland
Newry, Mourne and Down District Council
Planning Office
O'Hagan House
Monaghan Row
Newry
BT35 8DL



2nd April 2018

Dear Ms. McParland,

Further to the above-referenced application and the Planning Authority's recommendation of refusal on two grounds, I am writing in full support of Mr. Richard Newell's proposal and rebutting both of the Department's reasons for refusal.

The first recommended reason for refusal states:

The proposal is contrary to the Addendum to PPS7: Residential Extensions and Alterations, Policy EXT 1 criteria A in that the proposal is not sympathetic with the built form and appearance of the existing property, and is not located within the established curtilage of the dwelling, and if granted would detract from the appearance and character of the surrounding area.

In this regard, and with specific reference to criterion (a), Policy EXT 1 of the above-referenced Planning Policy Statement states:

"Planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

"(a) 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".

Criterion (a) simply relates to the overall design of the actual development and not to its siting, therefore to state that the proposal is contrary to criterion (a) of Policy EXT 1 because

the domestic boathouse is not located within the established curtilage of the existing dwelling is incorrect and should consequently be removed from the wording of said refusal reason.

Furthermore, with specific regards to criterion (a) of Policy EXT 1, and the consideration of said policy against the design of Mr. Newell's domestic boathouse, please note that the built form of the structure is sympathetic to the applicant's existing property, possessing a simple rectangular form and a single-pitched roof.

With regards to the finish of the domestic boathouse, Policy EXT 1 does not require the finishes of an associated domestic extension or alteration to match the finishes of its respective dwelling, but rather to be sympathetic with the existing property. Please note that there are many domestic structures associated with adjacent dwellings in both the immediate and the wider area surrounding the application site which do not match the finished materials of their respective dwellings. Rather, the finish of the domestic boathouse, namely metal painted dull green, is wholly sympathetic with Mr. Newell's existing property and, given its careful siting, inconspicuous colour and congruous finished material, does not detract in any way whatsoever from the appearance or character of the surrounding area.

For the reasons detailed above, the proposal meets the requirements of criterion (a) of Policy EXT 1, and therefore overcomes the Department's first recommended reason for refusal.

The second recommended reason for refusal states:

The proposal is contrary to the Banbridge, Newry and Mourne Area Plan 2015, in that the siting of the building could compromise the delivery of housing development on zoning AN 02.

In this regard, and further to my letter dated 5th January 2017, please find enclosed the previously submitted and still pertinent letter from the applicant, Mr. Richard Newell, informing you of his circumstances and his knowledge of the current situation, in addition to an indicative site layout plan showing how a future housing development would be comfortably accommodated around the existing domestic boathouse.

Mr. Newell is in full ownership of the majority of land zoned for housing which is designated as AN 02 in the Banbridge/Newry and Mourne Area Plan 2015, and is fully aware of said zoning. He previously submitted two Outline planning applications for a housing development on the portion of land marked AN 02, which were duly approved (planning application ref: P/2005/0219/O, and its renewal P/2008/1182/O). As stated by the Case Officer of planning application ref: P/2008/1182/O, in his report considering that particular application, the site will potentially accommodate 10 no. dwellings, as shown in the associated site layout illustration of that application, and also as shown on the above-mentioned indicative site layout plan attached with this letter. Please note that Mr. Newell also understands he has constructed a domestic boathouse within a small portion of said land zoned for housing.

The above-quoted refusal reason states that, "The proposal is contrary to the Banbridge, Newry and Mourne Area Plan 2015, in that the siting of the building could compromise the delivery of housing development on zoning AN 02." Please refer to the attached indicative site layout plan which shows that 10 no. dwellings and associated detached garages would comfortably sit within the land zoned for housing (designated AN 02), each possessing more than adequate and recommended amenity space surrounding each dwelling. The existing domestic boathouse does not adversely impinge on that proposed development, and therefore the land zoned for housing is most emphatically not compromised by the presence of a small domestic boathouse.

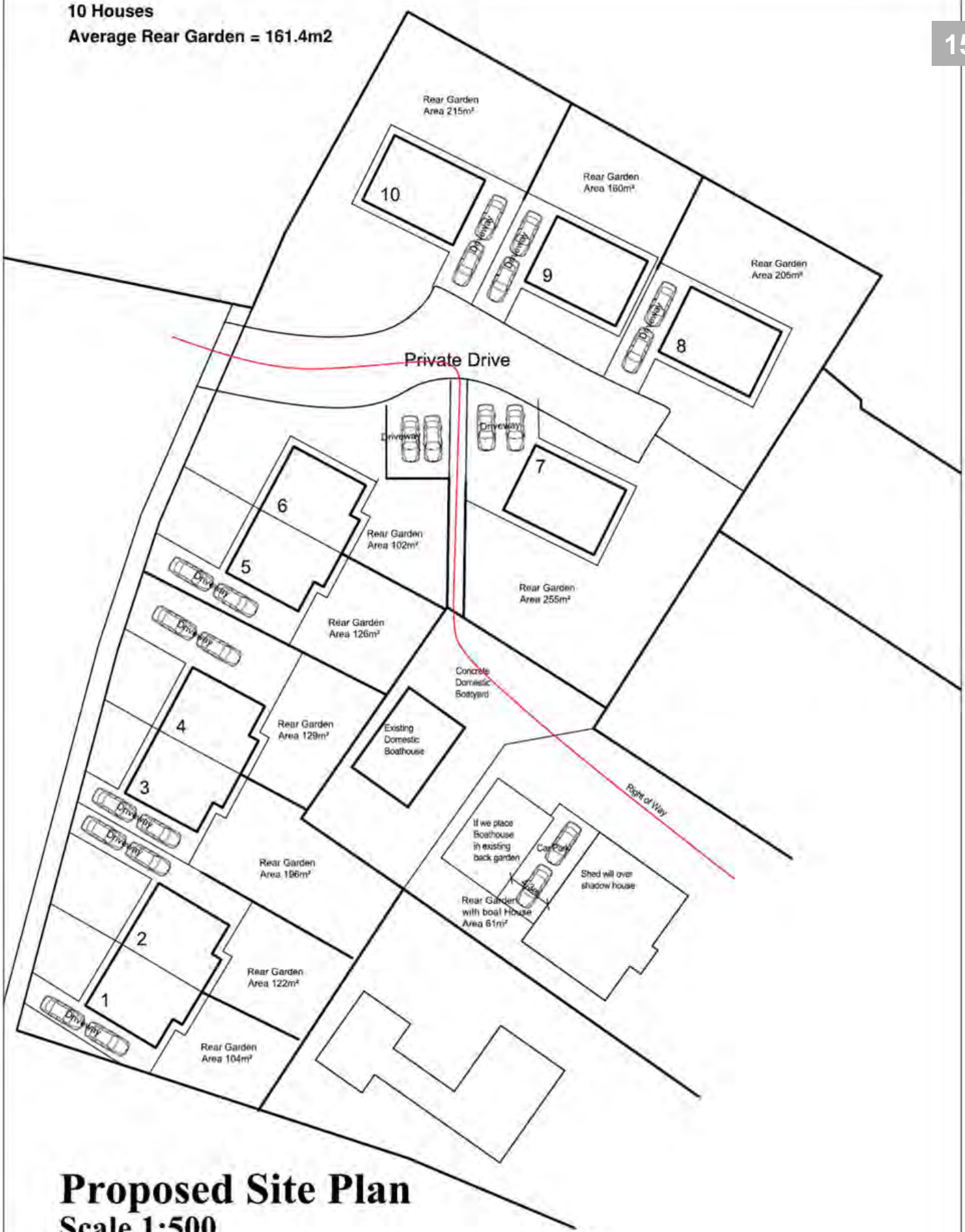
In conclusion, for the reasons stated above, in addition to the evidence contained within the attached information, the submitted application meets the requirements of criterion (a) of Policy EXT 1, would not compromise the delivery of housing development on zoning AN 02 of the Banbridge/Newry and Mourne Area Plan 2015, and we therefore request that the Department looks favourably upon this policy-compliant proposal and recommends for approval.

Yours sincerely,

John Law BSc (Hons.) Dip. TP

10 Houses

Average Rear Garden = 161.4m²



Proposed Site Plan
Scale 1:500





| | | | | |
|------------------------|---|--------------------|-----------------------------|---|
| ITEM NO | 5 | | | |
| APPLIC NO | LA07/2017/0105/O | Outline | DATE VALID | 24/01/2017 |
| COUNCIL OPINION | APPROVAL | | | |
| APPLICANT | Mr D Hanratty 18 St Monnina Park Meigh Newry BT35 8SL | | AGENT | Feargal Carolan 40 Larchmount Newry BT35 6TX |
| LOCATION | Lands 110m SE of No. 53 Ballintemple Road Killeavy | | | |
| PROPOSAL | Proposed tourist camping site consisting of 12No glamping pods, shower/toilets/ utilities building, children's play area and ancillary works | | | |
| REPRESENTATIONS | Obj Letters | SUP Letters | Obj Petitions | SUP Petitions |
| | 6 | 1 | 0 | 0 |
| | | | Addresses Signatures | Addresses Signatures |
| | | | 0 0 | 0 0 |



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agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0105/O

Date Received: 24.01.17

Proposal: Proposed tourist camping site consisting of 12 No. glamping pods, shower/toilets/utilities building, children's play area and ancillary works

Location: Lands 110m SE of No. 53 Ballintemple Road, Killeavy

Site Characteristics & Area Characteristics:

Site is accessed from Ballintemple Road comprising of two agricultural fields with ruins to the SE of the roadside field.

Site History:

LA07/2016/1694/O - Proposed replacement dwelling with detached garage. 90m SE of No 53 Ballintemple Road Newry. Refused (Roadside field)

P/2014/0058/O Site for replacement dwelling 90 metres north west of no 49 Ballintemple Road, Newry. Granted (Adjacent and NW)

P/2012/0249/F - Erection of replacement dwelling and garage in substitution for application P/2005/2835/F. No 51 Ballintemple Road, Killeavy. Approved (Adjacent and South)

P/2006/2277/RM Erection of replacement dwelling and detached garage 130 metres south of 50 Ballintemple Road,. Approved (Adjacent and NW)

P/2003/1906/O Site for replacement dwelling and garage 130 metres south of No. 50 Ballintemple Road, Killeavy. Granted Approved (Adjacent and NW)

P/2005/2835/F Erection of replacement dwelling No. 51 Ballintemple Road, Killeavy. Approved (Adjacent and S)

P/1987/0487 Site or bungalow. Ballintemple Rd. Withdrawn (Roadside field)

Planning Policies & Material Considerations:

Banbridge/ Newry and Mourne Area Plan 2015: Countryside AONB

PPS3, DCAN 15 and Parking Standards: Transport NI in comments dated 31.01.18 have raised no major objections

PPS6: HED in comments dated 06.02.18 are content

SPPS, PPS2, PPS21 (CTY1, CTY 8, CTY13, CTY14, CTY16), PPS16

Policy CTY 1 of PPS21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside. Having taken into account the nature of this proposal it is considered PPS16 (Tourism) is the key policy context which sets out the Departments planning policy for tourism development.

Proposals are for a tourist camping site consisting of 12 No glamping pods, shower/toilets/utilities building, children's play area and ancillary works. The policy refers to new holiday parks and extensions to existing sites for the purposes of this policy a holiday park is defined as a caravan site licensed under the caravans act (NI) 1963 which in addition to static caravans, may also contain holiday chalets, or cabins, pitches for touring caravans, motor homes and tenting.

Planning permission will be granted for a new holiday park where it is demonstrated that the proposal will create a high quality and sustainable form of tourism development. The development is well placed with regard to surrounding tourist attractions with Slieve Gullion and Camlough Lake within a 2 mile radius of the site and incorporates sustainable form through the design of the pods, rain harvesting and renewable energy options with geogrid drive/ parking areas.

The agent has provided an indicative layout and landscaping plan for the development in accordance with TSM 6. Proposals for a holiday park development must be accompanied by a layout and landscaping plan and will be subject to some 7 specific criteria (a-g).

The main area of development is located to the NE set well back from the public road and contained within the second field. Ground at the site falls away gently from the SW boundary however given the natural topography and position within the landscape along with additional planting will not be a prominent feature when viewed from Ballintemple Road. There are long distant views from the Trasna and Chapel Roads however development is set against a backdrop of rising land and forest landscape to the west of the site with other views at times restricted by natural topography.

Having considered the nature and scale of the development within its existing setting it is considered that the glamping pods, play area and the ancillary building can be readily absorbed into the landscape without adversely impacting on the visual amenity of the rural character and the Area of Outstanding Natural Beauty.

The site presently has existing natural vegetative boundaries along the northern and southern boundaries, recent saplings have also been planted along the area of the proposed access along with additional planting shown on the indicative layout (which can also be made conditional of a planning notice) which would supplement existing

planting to ensure that development is adequately screened and integrates into the area.

The agent has provided adequate communal space in the form of a green open space with play park which forms an integral part of the development positioned to the front of and surrounded by glamping pods. The layout of the pods are informally arranged within the site but separated by strips of open space landscaping.

As an outline application there are no detailed drawings of the ancillary building in terms of scale, design and materials or details, hard standing areas and areas of lighting despite this in order to ensure that development respects the local context and is appropriate to its location within the AONB planning conditions could be attached to a decision notice to ensure development is adequately controlled.

The access will utilise an area of hard standing to the southern portion of the site with part of the access cutting across the middle of the field which is not ideal visually. Despite this, it is acknowledged that given the nature of proposals it is difficult to achieve adequate sight lines at the entrance point and accept the logic of this position although it will require additional landscaping along the frontage in order to adequately accommodate.

There are no concerns regarding archaeological and built heritage with the proposal and the applicant has provided a biodiversity checklist which indicate there is no protected species on site.

The proposed development is to rely on non mains sewerage. The applicant has proposed a waste water treatment plant and reed beds. Consent to discharge will be required from NIEA

Impact on European Sites

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the conservation objectives/ features of Slieve Gullion SAC or any other European site either alone or in combination

Consultations:

HED (06.02.18) - Content

NIEA (27.02.17) Water Management - Content

Natural Heritage - Natural heritage issues with proposals.

Rivers Agency (17.02.17) - Site outside 1 in 100 year fluvial flood plain but minor part of site is located within a predicted flooded area as indicated on the Surface Water Flood Map. If planning deem site exceeds 1000m² of hard standing then a drainage assessment is required

Transport NI (31.01.18) - 1:500 plan and survey to be submitted at RM

NIW (12.02.18) - Generic response

Environmental Health (08.02.18) - No objection in principle, caravan licence required

Objections & Representations

6 Neighbours notified originally, 7 re-neighbour notified

Advertised Feb 2017, Re Ad Feb 2018

6 Objections (2 letters from same person) and 1 letter of support

Letter of Support – Cllr L Kimmins Sinn Fein (12.04.17)

Issues:

- Positive development at the foot of Slieve Gullion which is a major tourist attraction
- Attract more tourists which in turn would promote local business and boost the local economy

Letters of Objection

P Loughran, 6 Trasna Rd
 O Maguire 10 and 10A Trasna Rd (2 letters)
 J O Hare 47B Ballintemple Rd
 P and M Carr 50 Ballintemple Rd
 P Carr 8 Trasna Rd

Issues

- Noise
- Impact to privacy/ amenity
- Site in close proximity to the church is not in keeping with the rural landscape
- Narrow road unable to cope with existing traffic
- Increased traffic and associated danger
- AONB: proposals will be detrimental to area
- No notification sent to 47B Ballintemple Road
- Huge demand placed on already failing infrastructure within the area
- Light and noise pollution

Considerations:

Amended proposals received 31.01.18, 1 additional objection received however concerns previously raised including that of the most recent letter are applicable

- Environmental Health have raised no concerns with regard to noise
- Objectors are sufficiently set away from proposals that there should be no direct impact to privacy or amenity
- Roads had previously raised concerns with proposals which incorporated touring caravans and the inability of current infrastructure to deal with these, this resulted in a revised scheme being submitted which removed the touring caravan sites and having just glamping pods at the site. Transport NI in comments dated 31.01.18 have raised no further objections.
- Impact to AONB considered in above report
- Notification now sent to 47B
- Lighting to be controlled by planning condition and subject to detailed drawing stage

Consideration and Assessment:

Objections have been fully considered, proposals meet the requirements of planning policy for the reasons set out above and on this basis it is recommended to approve the application.

Recommendation:

Approval

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 the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

3. Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

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

4. No development shall commence on site until full details of the proposed building, layout, including paths, parking, landscaping and lighting have been submitted to and agreed by the Council.

Reason: In the interest of providing a high quality tourist development in the AONB.

5. No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape.

6. The Camping Pods hereby permitted shall be used only for holiday accommodation and shall not be used for permanent residence(s). The owner/operator shall maintain an up to date register of the names and addresses on the occupiers of the pods and shall make the register available at all reasonable times to the Local Planning Authority upon request.

REASON: The site is located within an AONB where it is the policy of the Council to restrict development and this consent is hereby granted solely because of its proposed holiday use.

6. None of the camping pods hereby permitted shall be replaced by any other structure(s) or caravan(s) differing from the approved details, unless and until details of the size, design and colour of such replacements have first been approved in writing by the Local Planning Authority.

REASON: To preserve the amenities of this rural area.

7. A non-obtrusive low level solar lighting shall be used within the scheme the details of which shall be submitted in writing to the Planning Authority and agreed in writing.

Reason: This type of lighting will ensure the amenity of the neighbouring resident's is protected and ensure the development integrates into the surrounding area.

8. Existing natural screenings as indicated on approved plan drawing No. 01 date stamped, shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be given to the Planning Authority in writing within 28 days.

Reason: To ensure the development integrates into the countryside

9. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of operation for its permitted use another tree or trees shall be planted at the same place and shall be of such size and species and shall be planted at such time as may be specified by the Planning Authority.

Reason: To ensure the continuity of amenity afforded by existing trees.

10. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

11. No development shall take place until a plan indicating floor levels of the proposed glamping pods and ancillary building in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the development integrates into the landform.

12. The proposed ancillary shall have a floor area of not more than 100 sq. metres measured externally and height shall not exceed 5m

Reason: To ensure that the development is satisfactorily integrated into the landform.

Case Officer

Authorised Officer

Photographs



Ballintemple Rd (NW looking SE)



Ballintemple Rd (NW looking SE)



Entrance to site



Ballintemple Road (SE looking NW)



Access into second field (development proposed to right of photo)



Existing development to S



2nd field where development is proposed



Roadside field



View to N/ NE



View from site



View from Trasna Road



View from Trasna Road



View from Trasna Rd (No. 8)



View from Chapel Road



View from Chapel Rd (Close to 73)

| | | | | |
|------------------------|---|--------------------|----------------------|---|
| ITEM NO | 8 | | | |
| APPLIC NO | LA07/2017/0562/F | Full | DATE VALID | 11/04/2017 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | John Perry 8 Leestone Road Kilkeel | | AGENT | O'Callaghan Planning Unit 1 10 Monaghan Court Newry BT35 6BH |
| LOCATION | Approximately 320 metres North West of 21 East Council Road Magheragh Ballymartin | | | |
| PROPOSAL | Erection of dwelling and garage in substitution for dwelling approved under application P/2008/0825/RM | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 1 | 0 | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |

- 1 The proposal is contrary to the SPPS (Strategy Planning Policy Statement) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0562/F

Date Received: 11th April 2017

Proposal: Erection of dwelling and garage in substitution for dwelling approved under application P/2008/0825/RM

Location: Approximately 320 metres North West of 21 East Council Road, Magheragh, Ballymartin

Site Characteristics & Area Characteristics:

The subject site incorporates the 2nd field back on the north western side of East Council Road. Dry stone walls bind the south eastern and south western portion of the site walls with gorse vegetation along the remaining boundaries. Foundations are exposed within the site and appear to have been there for a number of years (inspected as garage foundations by building control 11th May 2011). A dry stone wall and field gate are located at the entrance to the East Council Road. The topography around the site is fairly flat and the landscape open.

Site History:

P/2005/0920/O – site for dwelling and garage – approval 7th March 2006

P/2008/0825/RM – site for dwelling and garage – approval 12th June 2009

P/2015/0002/F – change of house type from that previously approved under P/2008/0825/RM – Refused 4th November 2011 – Appealed under 2015/A0193 and appeal dismissed 27th June 2016.

LA07/2016/1090/F – Retention of development at variance with condition 2 (which requires the provision of the access and visibility splays prior to the commencement of the development) of planning approval P/2008/0825/RM – returned invalid as P/2008/0825/RM had time expired and therefore condition could not be varied.

Planning Policies & Material Considerations:

SPPS – Strategic Planning Policy Statement

Planning Act (NI) 2011

The Planning (NI) Order 1991

PPS 2 – Natural Heritage – NH 6 – AONBs

PPS 3 – Access, Movement and Parking

PPS 21 – CTY 1 (Development in the Countryside) which outlines a number of development types which are considered acceptable in principle to contributing to the aims of sustainable development.

CTY 13 (Integration) CTY 14 (Rural Character) and CTY 16 (Development relying on non-mains sewerage) – the off-site element.

Other Material Considerations Planning Case Law including:

Riordan Communications v South Bucks District Council (2002) JPL 594 which followed the lead given in the Scottish case of *East Dunbartonshire Council v Secretary of State (S.O.S) for Scotland and MacTaggart & Mickel Ltd (1999) 1 PLR 53* – the approach taken in the Riordan and East Dunbartonshire case has been followed by the Court of Appeal in *Staffordshire County Council and Riley (2002) PLC 75*. The East Dunbartonshire case found that by applying an objective approach and considering first whether what has been done has been in accordance with the relevant planning permission and second whether it is material in the sense of not being de minimis.

R (Ashfield) v National Assembly for Wales (2003) EWHC 3309 (admin); Pitchford 18th December 2003 held, following the East Dunbartonshire case that the appropriate test is objective and that the intention of the person carrying out the operation is irrelevant.

F.G Whitley and Sons v Secretary of State for Wales and Clwyd Co. Council (1992) – which produced the Whitley principles being:

- the developer has done everything practicable to meet the condition;
- approval has subsequently been given so that unauthorised work carried out within the time limits was made lawful;
- the planning authority has agreed that development could start without complying with the relevant conditions; or
- the condition had been complied with but the procedural formalities, such as written notification of the planning authority's approval, had not been completed before work started.

Hart Aggregates Ltd v Hartlepool BC (2005) – conditions that go to the 'heart' of the permission.

Bedford BC v The Secretary of State for C and LG and Alexander Stanislaw Murzyn (2008) – gave prominence to the actual wording of conditions precedent (pre-commencement) and whether by not complying with them prior to the development being carried out resulted in a breach of condition or unlawful development/implementation.

Greyfort Properties Ltd v SSCLG (2010) – A true condition precedent must both prohibit development without compliance with it and must also go to the heart of the permission.

Boots Homes Ltd v Bassetlaw District Council 2002 – the outcome of this case was that "conditions on a planning permission must either be complied with, at least in substance (see the Flintshire case), or if it is sought to vary or discharge them, the

mechanism laid down by Parliament in section 73 of the Act, or in appropriate circumstances in section 73A must be utilised."

Consultations:

Transport NI – no objections – conditions supplied regarding vehicular access:

The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 02 bearing the date stamp 27 April 2015, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

This condition confirms that the access put in the latter half of 2015 is still unacceptable in terms of road safety and not in conformity with the condition attached to P/2008/0825/RM.

NIW – standard generic response

Objections & Representations

No neighbours adjacent therefore none notified. Advertised in 1 local paper on the 26th April 2017. No representations made.

Consideration and Assessment:

Article 45 of the Planning Act (NI) 2011 states that subject to this Part and section 91(2), where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with application, must have regard to the local development plan, so far as material to the application, and to any other material considerations. As per the current development plan – The Banbridge Newry and Mourne Area Plan 2015, the site lies outside any defined settlement and within the rural countryside between Kilkeel and Ballymartin. It also lies within a designated Area of Outstanding Natural Beauty (AONB). A determining material consideration in this case is current planning policy and in particular Planning Policy Statement 21 – Sustainable Development in the Countryside which is the determining policy in dealing with single dwellings in the country.

The application is for a dwelling and garage in substitution of that previously approved under P/2008/0825/RM. The outline stipulated conditions regarding timing for the submission of reserved matters, access arrangements, the design, siting, curtilage restriction, landscaping and materials. The proposed application involves a dwelling and garage on a larger site as that approved at outline but still within the 2nd field back from East Council Road. The house type is still a 1 ½ storey dwelling with a ridge height of 5.8m above finished floor level (FFL) which is 0.3m above the outline condition, and under build of 0.3m (0.15 below outline condition). The design includes a roughcast rendered façade, black uPVC casement style windows, gloss black roof tiles and natural stone to the front porch. Providing the stone is locally sourced, there are no issues with regard to the dwelling and garage type proposed

and the extended site boundaries. Existing boundaries are to be augmented with native species planting and new landscaping to the roadside facing boundary.

However, although the proposed change of house type maybe acceptable, due to the passage of time since the Outline and RM were approved and the fact that both permissions have now lapsed, the onus is on the applicant to demonstrate that development has lawfully commenced to keep the permissions live.

The advice currently on the Department's website/planning portal is the same that was given around the time the RM application was decided. This advice included the following:

'Where an applicant has complied with conditions relating to works to be carried out before the commencement of development of other work e.g the construction of an access in accordance with the approved plans, and

- Where an applicant has commenced any work of construction in the course of the erection of a building, such as the digging of foundations and preferably pouring of concrete, driving of piles or other substantive works;
- The laying of any underground main pipe to the foundations or part of the foundations of a building;

If development is commenced on site but not completed, the Department recommends the applicant retains any documents or records the work carried out including copies of dated invoices, receipts, building control approval, dated photographs etc in case there is a need to produce these at a later date if there is any issue about the date of commencement.

Whilst the above information on the Department's website is only advice, section 63 of the Planning Act (NI) 2011 provides the legislation. Section 63 outlines the provisions supplementary to sections 61 and 62 which refer to the duration of planning permission and the duration of outline planning permission respectively. In the case of this application and the date of when the RM expired being 10th June 2011, Article 36 of the Planning (NI) Order 1991 would have been applicable. Both Section 63 (2) and Article 36 (1) refer to operations comprised in the commencement of development namely:

- (a) Where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building;
- (b) Where the development consists of or includes alterations any work involved in the alterations;
- (c) Where the development consists of or includes a change of use of any building or other land, that change of use;
- (d) Where the development consists of or includes mining operations, any of those operations.

In the case of this site, the garage foundations were constructed and inspected by building control 11th May 2011 and this was not disputed by the Council during the site visit of appeal 2015/A0193 (change of house type). It is therefore recognised that this particular work falls within the meaning of 'development' as per section 23 of the Planning Act (NI) 2011 (and Article 11 (1) of the Planning (NI) Order 1991). The

Council stated that whilst the foundations may have been put in place within the time limits, the access arrangements had not be constructed **prior** to the commencement of these foundations as per condition 2 of the RM approval but during the latter half of 2015 – that's nearly 4 years after planning permission had lapsed! To date, recent consultation with DFI Roads has confirmed that the access has still not been correctly constructed and a similar condition to that placed on the RM application has been provided for this current application.

Therefore the works carried out and its relationship with the approved planning application does not in my opinion constitute a material start to the dwelling approved under P/2008/0825/RM. The access condition identified above is a 'true' condition precedent that goes to the heart of the decision issued. It needs to have been complied with in full before any further works to the planning approval (i.e. garage foundations) were carried out.

The PAC correctly informed through its last decision on the same site that there is a legal procedure for the developer to satisfy themselves that the work which they have undertaken is lawful through an application for a Certificate of Lawfulness under Section 169 of the Planning Act (NI) 2011 (Article 83A of the Planning (Northern Ireland) Order 1991). The Planning Appeals Commission has also referred to this procedure in other recent appeals such 2015/A0193 and 2014/A0290. This mechanism was never used by the developer of this site to establish commencement of their planning approval.

Recommendation:

The commencement of development for the dwelling approved under P/2008/0825RM has not been carried out in accordance with Section 61 of the Planning Act (NI) 2011 or Article 34 of the Planning (NI) Order 1991 as it was at the time of the decision notice. The outline and reserved matters permission have lapsed and there is no overriding reason why this development is essential in this rural location.

Refusal Reason:

The proposal is contrary to the SPPS (Strategy Planning Policy Statement) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

| |
|-------------------------------|
| Case Officer Signature: |
| Date: |
| Authorised Officer Signature: |
| Date: |



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agus an Dúin

**Newry, Mourne
and Down**
District Council

Reconsideration following submission of Noise Impact Assessment (NIA) in support of LA07/2015/0248/F

Application Reference: LA07/2017/0562/F

Date Received: 11th April 2017

Proposal: Erection of dwelling and garage in substitution for dwelling approved under application P/2008/0825/RM

Location: Approximately 320 metres North West of 21 East Council Road, Magheragh, Ballymartin

Consideration and Assessment:

The application was removed from the committee list of 6th December 2017 following a late objection relating to the impact of the proposed dwelling on the NIA of a pending wind turbine application nearby (230m away). In this case, consultation with the Council's Environmental Health Department (EHD) took place. A NIA assessment was submitted in support of the wind turbine application (LA07/2015/0248/F) and the findings enabled the EHD to conclude with no objections regarding the application for a dwelling and garage under LA07/2017/0562/F.

However, the other issues raised in the case officer report signed and dated 9th November 2017 remain unchanged. Whilst the foundations for the dwelling approved under P/2008/0825/RM may have been put in place within the time limits, the access arrangements were not put in place **prior** to the commencement of these foundations as stipulated in condition 2 of the RM approval but during the latter half of 2015 – nearly 4 years after planning permission had lapsed! The most recent DFI Road comments also indicate that the access is still not up to road safety standards and a similar condition to the previous RM has been imposed.

A recent PAC decision (2017/E0027 decided 21st February 2018) makes it very clear of the importance of pre-commencement conditions in paragraph 20 stating that '*such conditions play an important role within a planning permission and, until they have been satisfied, a planning permission cannot be implemented*'. In this

appeal, the access was also not constructed in accordance with the approved plans and what was constructed was after other works had taken place on site. The appeal concludes at paragraph 26 stating that *'as the pre-commencement conditions were not complied with, condition 1 on the application P/2010/1299/F (time) and the requirements of Article 34(1) of the Order (as it was at the time) were not satisfied.'*

To conclude this current planning application at East Council Road, the commencement of development for the dwelling approved under P/2008/0825/RM has not been carried out in accordance with Section 61 of the Planning Act (NI) 2011 or Article 34 of the Planning (NI) Order 1991 as it was at the time of the decision notice as pre-commencement condition 2 was/has not been satisfied, implemented within the correct order and time limit. The outline and Reserved Matters permission have both lapsed and there is no overriding reason why this development is essential in this rural location.

Recommendation: Refusal

Refusal Reasons/ Conditions:

The proposal is contrary to the SPPS (Strategy Planning Policy Statement) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

| |
|-------------------------------|
| Case Officer Signature: |
| Date: |
| Authorised Officer Signature: |
| Date: |

The Planning Committee
Newry, Mourne and Down Council
C/o O'Hagan House
Monaghan Row
Newry
BT35 8DJ

04th April 2018

Your ref: LA07/2017/0562/F
Erection of dwelling and garage in substitution for dwelling approved under application P/2008/0825/RM, Approximately 320 metres North West of 21 East Council Road Magheragh Ballymartin

Applicant: Mr John Perry

Dear Sir / Madam,

The above mentioned planning application has been recommended for refusal, and it is to be discussed at the planning committee meeting on 11th April 2018. The application has been recommended for refusal for the following reason:

The proposal is contrary to the SPPS (Strategy Planning Policy Statement) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

The background to the case is that planning permission was originally granted for a dwelling on this site (P/2008/0825/RM). After that, the applicant undertook certain works to preserve the planning permission. In particular, part of the site was stripped of its top soil, and foundation trenches were excavated for the garage (with concrete poured therein) and these works were inspected by building control officials. Unfortunately, due to conflicting advice offered at that time, the works were advanced absent the prior clearance of sight lines. These operations were required to have been undertaken prior to the execution of any further works. This stipulation was attached to the reserved matters approval but not the preceding outline permission.



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The applicant later applied for permission for "change of house type" however this was refused and an appeal dismissed, on the basis that the sight lines were not cleared in advance of the execution of the foundations being laid. However, just after this appeal was dismissed the planning committee began to approve repeat planning applications in these circumstances. Applicants were afforded the benefit of doubt, where foundations were laid in incorrect positions or where pre-commencement conditions were not adhered to. In one particular case a new permission was granted where no works were undertaken at all.

At this time, I am advised that the access is in accordance with DfI Roads' requirements. However, the planning department has questioned this in its current planning report (it has assumed that since DfI Roads' consultation response is framed in the future tense, the access is not currently to the required standard). Whether or not this is the case, DfI Roads has endorsed the current access arrangements and any necessary improvements can be delivered by the applicant prior to any further works taking place. We believe that the DfI Roads response is a generic comment so determining weight need not be attached to the tense set out in the said document.

The key issue of concern to the applicant is that the planning report has failed to mention the fact that the Planning Committee is routinely approving applications in these circumstances. There appears to be an assumption that decisions taken by the planning committee are not binding upon the outcome of other like grouped applications. This is not reasonable.

In the past 12-18 months, Newry, Mourne and Down Council has taken a pragmatic approach, in relation to the issue of commencement of development on sites with historic planning approvals albeit where there are queries arising in respect of a pre-commencement condition or to the positioning of excavated trenches.

Relevant permissions granted by your Committee include:

- P/2015/0173/F
- LA07/2015/1264/F
- LA07/2016/0075/F
- P/2015/0056/F
- LA07/2017/1168/F
- LA07/2017/0099/F
- LA07/2016/0429/F
- LA07/2017/1042/F

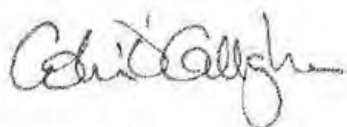


More recent examples include **LA07/2017/0644/F**. The background to this application was that a similar application had recently been refused but the new application was submitted when the planning committee changed its protocol. The same approach should prevail here also.

In the interests of fairness and consistency, I would respectfully request that this application be approved, particularly given the genuine attempts to implement this permission (which have been independently verified by the legacy Council's Building Control Department) and the Committee's now established practice of issuing approvals in these circumstances albeit with a reduced timescale for the implementation of the new permission.

I trust that the background to this application has been adequately laid out for the Committee's benefit, however, in the event of any queries arising, or additional information being required, please do not hesitate to contact this office.

Yours Faithfully,



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

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

| | | | | |
|------------------------|---|--------------------|-----------------------------|--|
| ITEM NO | 18 | | | |
| APPLIC NO | LA07/2017/1707/F | Full | DATE VALID | 07/11/2017 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | Kevin Teggart Senior 51 Ayallogue Road Newry | | AGENT | O'Callaghan Planning Unit 1 10 Monaghan Court Monaghan Street Newry BT35 6BH |
| LOCATION | Approximately 270 metres south east of 51 Ayallogue Road Newry | | | |
| PROPOSAL | Erection of replacement dwelling with detached garage | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 0 | 0 | 0 | 0 |
| | | | Addresses Signatures | Addresses Signatures |
| | | | 0 0 | 0 0 |

- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1707/F

Date Received: 01.11.2017

Proposal: Full Permission for the erection of replacement dwelling with detached garage

Location: Approximately 270 metres south east of 51 Ayalogue Road, Newry

Site Characteristics & Area Characteristics:

The site includes 2 buildings and one substantially demolished building to the back of a larger farm complex. The red line boundary also includes a section of agricultural land closest to the farm complex and a private lane connecting the site to the Ayalogue. The site is set back approx. 320m from the Ayalogue Road and is located within the Ring of Gullion AONB.

Site History:

N/A

Planning Policies & Material Considerations:

Banbridge Newry and Mourne Area Plan 2015.
Strategic Planning Policy Statement for Northern Ireland
Planning Policy Statement 21
Planning Policy Statement 3 / DCAN 15
Planning Policy Statement 2
Building on Tradition

Consultations:

Transport NI – No objections subject to compliance with RS1 form
NI Water – generic response.

Objections & Representations

8 neighbours notified on 23.11.2017 and the application was advertised on 22.11.2017. No objections or representations received.

Consideration and Assessment:

The site is located within the rural countryside / AONB as designated in the Banbridge Newry and Mourne Area Plan 2015. There are no specific objections in relation to the Area Plan.

Planning Policy Statement 21

Policy CTY 1 makes provision for a replacement dwelling where it meets the policy test laid out in policy CTY 3.

It is accepted that the buildings applied for when considered together are substantially intact. However at the time of my site visit the buildings offered no essential characteristics of a dwelling house. Anecdotal evidence has been submitted by the agent stating the previous use as a house and that a building is noted in historical maps. However the test in this policy is not the history of a building but whether or not it has the characteristics of a dwelling house. In this case, in the absence of any essential characteristics of a dwelling house, the proposal fails the first test of CTY 3.

Whilst the agent has made reference to planning application LA07/2017/0420/F it is noted in this case the application was presented to committee as a refusal but subsequently over turned by the committee. The appeal referred to under ref 2014/A0254 did exhibit the essential characteristics of a dwelling and evidence was also produced at that hearing showing the dwelling prior to the works carried out. Whilst the agent has provided a photo from 1958 – this photo is not conclusive and the subject buildings are not easily deduced from it. In fact there are no features of the photograph that can be specifically or conclusively identified on site.

I would accept the off-site replacement aspect of the application has amenity benefits in terms of access through a working farm yard.

When the siting is considered against the back drop of the existing agricultural buildings, the distance from the public road and the orientation of the proposed dwelling it is not considered to have a significantly greater visual impact than the existing buildings to be replaced. The site is considered on balance to integrate. This is also in compliance with policy CTY13.

Whilst in different circumstances the design would expected to be amended, in this instance the front elevation which is the critical elevation is acceptable as the development to the rear of the property would not be easily read from the public road.

All services are anticipated to be provided without significant adverse impact and access will not prejudice road safety which has been confirmed by Transport NI.

As the proposal does not meet policy CTY3 in full, it therefore fails to meet the exception at policy CTY1. The proposal is contrary to policies CTY1 and CTY3.

Any approval notice would contain a negative condition for the applicant to provide the Council with the consent to discharge before work commences. The proposal is in general compliance with CTY16.

PPS3 – Access, Movement & Parking & DCAN15 – Vehicular Access

Transport NI has confirmed it has no objections to the proposal with regard the above policy criteria.

Planning Policy Statement 2 – Natural Heritage.

Policy NH6 is applicable as the proposal is within the Ring of Gullion AONB. However as this for a replacement dwelling with an acceptable siting, it is not considered to have an adverse impact on the AONB.

Recommendation: Refusal

Reason:

1. **The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.**

Case Officer:

Authorised Officer:

The Planning Committee
Newry, Mourne and Down Council
C/o O'Hagan House
Monaghan Row
Newry
BT35 8DJ

04th April 2018

Your ref: LA07/2017/1707/F
Replacement Dwelling at lands 270 metres south east of No 51 Ayalogue
Road, Killeavy

Applicant: Mr Kevin Teggart Senior

Dear Sir / Madam,

The above mentioned planning application has been listed for refusal, and it is to be discussed at the planning committee meeting on 11th April 2018. The application has been recommended for refusal for the following reason:

The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.

The application was originally to have been presented to the Committee on 07th March however it was removed from the schedule upon a request from the applicant, to enable the provision of additional supporting information.

As it happens, the additional information was submitted on 27th March 2018. This coincided with the planning department's listing of the application on the current schedule. In these circumstances, the planning department cannot have considered the new information prior to re-scheduling this application. However, we appreciate that the nature of the submission is such that it may not have fully satisfied the planning department although we believe the Committee will possibly lend greater credence to this.



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Additional Information Submitted on 27th March 2018

This information included a covering letter, a Certified Extract from the Valuation Records dating back to the time when the house was abandoned (after being damaged in a fire) and a letter and an accompanying document provided by the local parish curator (this confirmed the occupants of the building, and the information is consistent with that which we have provided throughout).

Consideration

The subject building is substantially intact at this time. However, we concede that the building no longer displays the main characteristics of residential use (kitchen units, fireplace, chimney). The reason for this is that the building's residential use has been abandoned for some time and after the building became uninhabitable it was adapted for ancillary / agricultural use. This however is not a fatal shortcoming for the purposes of this planning application since the salient planning policy's headnote confirms the following:

For the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings.

It is clear that the planning policy attempted to deal with some of the situations that might arise in the countryside, for example the typology of a dwelling recently destroyed by fire:

"In cases where a dwelling has recently been destroyed, for example, through an accident or a fire, planning permission may be granted for a replacement dwelling. Evidence about the status and previous condition of the building and the cause and extent of the damage must be provided".

We believe the policy did not deal with the situation of a dwelling that was destroyed, but not recently, because of an assumption that not all of a building of that typology would remain intact. On that basis, we refer back to the **Lamont** judgement, wherein the Courts held that

Of course, the Planning Service need not 'slavishly' follow the policy. The policy is one of many under the Planning Policy Statement 21 which focuses on sustainable development in the countryside. Within PPS21 a number of like situations are grouped together, for example, proposals for dwellings on farms. The policy indicates the preferred approach to these like cases in order to achieve the broader social and environmental goals relating to development in the



countryside. However, the policy itself, and much case law on this and similar issues, acknowledges that no policy can take into account the myriad considerations that may arise in individual fact scenarios that arise in the broad policy area. No planning policy can anticipate the personal, environmental, logistical etc. circumstances of all the individual planning applications made under the policy that need to be considered. However, what is contained in the policy, which cannot be ignored is the thrust of the desired result of the policy.

In effect, the Courts' direction is that an application must be decided by having regard to the relevant planning policy. However, this does not mean that a policy has to be applied, to the letter. Policies can lawfully be departed from or disapplied.

Since the policy did not anticipate a scenario of this nature, we submit that there is a lacuna in coverage particular to abandoned dwellings that have been modified or adapted for agricultural purposes. In these circumstances, decision-makers are legally empowered to arrive at a decision by having regard to the thrust of the desired result of the policy.

The first thing to note in relation to PPS 21, is that the "abandonment test" had been removed from previous planning policies that dealt with replacement dwellings. This is implicit in PPS 21, given the statement "for the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings". Therefore, we believe that the provisions of the policy could apply to this scenario.

The NI Assembly / Executive, which introduced PPS 21, indicated at that time that the purpose of changing the policy was a recognition that many former dwellings had fallen into a state of dilapidation. The Executive was of the view that it would be better if these buildings were replaced by fit for purpose homes (see attached letter from Edwin Poots MLA, the former Environment Minister responsible for PPS 21, to Thomas Buchan MLA).

We fully recognise the new political dispensation in relation to planning in this jurisdiction: in particular the transfer of planning powers to local Councils and the creation of new planning authorities. However, to ignore the aforementioned Ministerial Guidance on PPS 21 (on the basis it was published prior to the transfer of planning powers) would be tantamount to ignoring the policy because the original policy writers no longer have operational responsibility for the handling of planning applications of this nature.



In reality, it is likely that the new planning authorities will publish their own guidance through time, however until such times as the new authorities publish their own LDP's and policies, the above mentioned policy and its associated guidance must continue to be taken into account.

In relation to this specific proposal, the building was damaged in a fire in 1959 as a result of a gas canister exploding. Up until that time, the dwelling had been occupied by 11 members of the applicant's family:

Joseph Teggart (Father, deceased)
Margaret Teggart (Mother, deceased)
May Teggart (Oldest child, deceased)
Stephen Teggart (Deceased)
Roseleen (Teggart) Duffy (Deceased) - Featured in the photo outside the dwelling,
Joe Teggart (Currently resides in Crossmaglen)
Kathleen (Teggart) Cromie (Currently resides in Seavers road, Killeavy)
Theresa (Teggart) McKinley (Currently resides in Newtownclaghogue)
Kevin Teggart (Applicant - Currently resides on Ayallogue road)
Gerard Teggart (Currently resides on Ayallogue road)
Raymond Teggart (Youngest child, currently resides on Ayallogue road)

The history to the house is that it was built by Joseph Teggart, the applicant's father. His parents lived in a dwelling across the yard – the building with the stone steps outside it that appears now as a loft. The applicant recalls that at the time of the fire that destroyed the home, the emergency services were called and two fire engines attended the scene. Joseph Teggart lived in the house for most of his life. He died within 2 years of the house burning down, aged 81. The applicant was aged 13 when the fire occurred, and the house was never habitable again after the fire.

We appreciate that much of this evidence is anecdotal, however the building appears on the following historic map extracts:



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Historic Maps (1832 – 1846)



Historic Maps (1846-1862)

While we freely accept that the mere fact the building appears on the maps shown above does not indicate this property was a dwelling, we do believe that there is no reason why the application can not be determined on the basis of the evidence discussed herein.



Historic Maps (1900-1907)



Historic Maps (1905-) This shows the “outshot” constructed off the main house. This extension was not in place at the time of the 1846 – 1862 maps.

We have requested rates records and valuation entries, from LPS. We anticipate receipt of this information in the coming weeks, and thus we would respectfully request the Committee to defer a decision (in the event it is not sufficiently reassured to approve the application) to enable the rates history to be provided.

The need for flexibility in the application of the policy was among the key themes expressed in a previous Environment Minister’s Review of PPS 21. In relation to the issue of replacement dwellings, Minister Attwood made the following comment:

*I have explored the application of Policy CTY 3 ‘Replacement Dwellings’ with a view to identifying additional flexibility, **especially in regard to the assessment of whether the dwelling to be replaced meets the essential characteristics of a dwelling.***

This Review, while not operational planning policy is material to the determination of individual planning applications and appeals and it will remain so until the Council publishes its own LDP proposals.

In light of the two Environment Minister's comments, we feel there ought to be some scope for the application of flexibility in this case.

In advocating the exercise of pragmatism and flexibility, we urge the Committee to follow the example set in the handling of application **LA07/2017/0420/F**.

In that case, Newry, Mourne and Down Council approved a replacement dwelling north east of 90 Strangford Road, Chapeltown. The building presented had 4 walls substantially intact including peaks of gables. It had not been used for a considerable period of time as the roof, and any sign of roof structure was completely gone. The following extract was taken directly from the Council's assessment of the case:

- There is to the western facing side of the building a large opening with oval top defined with red brick detail, this opening is more akin to a traditional barn door opening and would not be associated with the openings typically found in dwellings.
- There is one other opening forming a window and evidence of other openings having been blocked up/disused. There is no evidence of any internal separation within the external structure that remains, perhaps there never being any.
- There are no characteristics evident on the building that would suggest that this building had ever been used as a dwelling. Externally there are no remnants of a curtilage or evidence of any definition or separation, noted the field the building is situated in had been recently ploughed at the time of inspection. The openings and existing form are not suggestive of a dwelling especially as no openings are along two sections of the building, the gable and rear wall. There is no chimney no evidence of there ever being one.



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(11) LA07/2017/0420/F – Mr & Mrs Gerard and Bernadette Curran

Location:
50m NE of 90 Strangford Road, Chapletown

Proposal:
Replacement dwelling and garage

Conclusion and Recommendation from Planning Official:
Refusal

Speaking rights:
Sean Kennedy, Agent, presented in support of the application.

Noted:
Councillor D Curran has indicated support for this application

AGREED: On the proposal of Councillor Clarke seconded by Councillor Murnin it was agreed to issue an approval in respect of Planning Application LA07/2017/0420/F, contrary to Officer Recommendation.

Planning Officers be delegated authority to impose any necessary conditions.

9

The minutes of the Council's planning committee meeting that occurred on 16th August 2017 confirm that the planning committee voted to approve the application contrary to the planning officer recommendation (to refuse).



**an tUll, Mhúill
agus an Dúin**
**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0420/F

Date Received: 10th April 2017

Proposal: Replacement dwelling and garage

Location: Land approx. 50m NE of no 90 Strangford Road, Chapeltown.



In relation to the present application, we have been provided with a historic photograph taken from the yard to the front of the dwelling in question. The house bears no resemblance to the building as it stands now, as the original pitched roof was damaged in the fire and it was then replaced with a mono-pitched structure, while the lean to at the end of the building was built up to tie into the main roof. However, we trust the Council will discuss this evidence on the understanding it has been provided in good faith and not in an attempt to show the exact condition of the dwelling at the relevant date.

We hope to have provided sufficient information to assist the Committee in its deliberations on this subject. In concluding, we would request the Committee to follow its recent example (the case at Chapelton) and to approve this application. We would also request that some consideration be given to the Ministerial Review of PPS 21 and the associated Minister's Guidance, even if these documents are not to be given determining weight. Finally, in the event the planning committee is not sufficiently reassured to approve this application, we would respectfully request a brief deferral to enable us to provide the Valuation List and associated evidence for the property. In the event the Committee has any further queries, please do not hesitate to contact this office.

Yours Faithfully,



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



RTPI
Chartered Town Planner





Image: Applicant's deceased sister pictured to the front of the subject building, prior to its demise in 1959.

The piers are located at the point where the access laneway veers to the south where it leads to the next farmstead at the end of the lane.



elp LA07/2016/1099/F Proposed replacement dwelling Lands 20m south of 176 Concession Road Clonalig Crossmaglen Co. Armagh

Save Search Refine Search Track Print

Details Comments (0) Documents Related Cases (0) Map

Summary Further Information Contacts Important Dates

| | |
|-------------------------|--|
| Reference | LA07/2016/1099/F |
| Application Received | Wed 17 Aug 2016 |
| Address | Lands 20m south of 176 Concession Road Clonalig Crossmaglen Co. Armagh |
| Proposal | Proposed replacement dwelling |
| Status | Permission Granted |
| Authority Decision | Permission Granted |
| Authority Decision Date | Mon 26 Jun 2017 |
| PAC Decision | Not Available |
| PAC Decision Date | Not Available |

There are 0 properties associated with this application.

an idax solution

This planning application was approved in June 2017. That proposal involved a replacement dwelling and its access onto a protected route. The proposal could not have been approved unless it involved the use of an existing access. At the time of the decision, there was no current access. However, the planning committee accepted that since there was evidence of a blacksmiths’ operating from the site in the early 1900’s, there had been an “existing access”.

This is relevant to the current application because we have provided evidence of a house on this site up until 1960-61, when it was removed from the rates records.



EXECUTIVE SUMMARY OF REASONS WHY APPLICATION LA07/2017/1707/F SHOULD BE APPROVED

Planning ref: LA07/2017/1707/F
Replacement Dwelling at lands 270 metres south east of No 51 Ayalogue Road, Killeavy
Applicant: Mr Kevin Teggart Senior

Permission is sought to replace a dwelling that was damaged in a serious fire, in 1959. After the house was damaged the occupants moved out, never to return. The building was used for agricultural purposes after the family moved out.

A Certified Extract from the Valuation List has been provided. This confirms the building was de-rated after the year 1960-1961, which is consistent with the information we have provided throughout.

The applicant was among a family of eleven who lived in the property. Parish records confirm the persons registered to this household. This cannot be tied to the building, only because these records pre-dated the issuing of postal addresses in this area.

The building has a number of characteristics which point to its previous residential use. It is clear the building was extended on a number of occasions. This occurred in a haphazard manner, in keeping with many rural households, to meet the demands of a growing family.

The building has domestic window and door openings still. Some of the windows are still glazed. The proportions (of solid wall to void / openings), the arrangement and the position of these window openings are all consistent with domestic / residential use, as distinct from agriculture or any other purpose.

The building's fireplaces have been lost. This can be explained by the fact that since the fire took hold (1959) the building has been occupied by animals intermittently and it has also been used for ancillary storage and general (agricultural) purposes. The interior of the building would likely have been tidied up / improved and any surviving rough edges removed to allow for continued use, hence there would be no surviving remains of fireplaces / hearths etc.

Planning policy for replacement dwellings provides for the replacement of dwellings and FORMER dwellings. This is a clear acknowledgement that some old dwellings, like this one, would have been abandoned. In the course of their abandonment it is inevitable their surviving (residential) characteristics would have been diminished.

The planning department is concerned at the lack of remaining characteristics of a residential property. This appears to have concentrated on fireplaces etc. However, we feel other characteristics cannot be ignored, e.g. domestic window and door openings, surviving glass frames (with domestic glazing), domestic room sizes / layouts and method of construction.



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Adding Value Through Quality Design

209

Ashley Donaldson
Newry, Mourne and Down Council
Planning Department
O'Hagan House
Monaghan Row
Newry
BT35 8DJ

27th March 2018

Dear Ashley,

Ref: LA07/2017/1707/F

Planning application for Replacement Dwelling at lands 270 metres south east of No 51 Ayalogue Road, Killeavy

I refer to the above planning application, which was recommended for refusal and due for presentation to the Council's planning committee on 07th March inst.

The application was withdrawn from the Committee schedule to allow for the presentation of additional information (that was not available at the time of the refusal recommendation).


The application relates to a proposed replacement dwelling. In presenting this application, we have provided certain information that pointed to the existence of a dwelling at this site, up until 1959. We provided details of the occupation of the dwelling (by the applicant's family) and pointed out that the dwelling was abandoned after being damaged in a fire back in 1959. It appears the Council is of the view that the evidence presented is anecdotal and lacking in precision. When combined with the Council's perception that there were no remaining characteristics of a dwelling, the Council clearly felt there were not strong enough grounds to warrant approval of this application.

In an attempt to address the Council's concerns, the applicant has liaised with the local curate for the Parish of Killeavy. Attached herewith is a letter provided by the Curator and dated 10th March inst. The curator confirmed the occurrence of the fire which damaged this dwelling, albeit based upon anecdotal evidence. Significantly, the curator provided a copy of a parish record dating back to the time when the house was last occupied. These records are consistent with the information previously submitted by O'Callaghan Planning, in particular the names of the persons resident in the former dwelling.

The list hereby enclosed provides details of two generations of the Teggart family. The upper list relates to the (then) owner Joseph Teggart and his siblings (their dates of birth can be seen, along with their mother's name [Bridget McNamee]). The lower list of nine people represents the children of Joseph Teggart and Margaret Teggart [nee Clarke]. The dates of birth for these children has been provided on the list, and this includes the applicant and his surviving siblings.



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Also enclosed herewith is a Certified Extract from the Valuation List covering the period when the property was damaged in the fire in question. The Extract refers to a property owned by J Taggart (note the misspelling – the applicant's name is spelt Teggart), and it is annotated as H O & L (House, Out-office i.e. shed, motor house, greenhouse etc, and Land).

The Extract has been taken from the Valuation List for the rating year 1960/1961. The House was removed from the valuation list with effect from the following rating year. While this came after the fire in question, it would support our contention that the building in question was in fact damaged beyond repair at the time we have previously stated.

We appreciate that the correlation between this information and the anecdotal evidence already presented is circumstantial. We are however continuing to try and obtain a map that would conclusively pinpoint the location of the building referred to on the Valuation Extract (we note that the Certified Extract provides a Map Number [20a] however this was not provided along with the Valuation Extract).

While we acknowledge that the evidence is, at present, circumstantial, we submit that the true test for such evidence in planning matters is "on the balance of probabilities" not "beyond reasonable doubt".

We would emphasise upon the Council that Policy CTY 3 provides for the replacement of dwellings AND buildings that were formerly used as dwellings. It follows that dwellings FORMERLY used as dwellings will no longer have all the original features (of residential use) remaining. In that respect, we hope the Council will recognise that the absence of a fireplace is not determining in this case, particularly given the domestic window and door openings that remain in place (some original window frames and glazing remain also, and these are consistent with residential use) and the other pointers towards a previous residential use i.e. scale, layout, form, proportions, design and general external appearance.

In concluding, we trust that this submission can be given due consideration, along with our written submission dated 26th February 2018. In the event that the Council has any further concerns remaining, please do not hesitate to contact this office. For now, we would be grateful if you could revert to us with your views on the significance of this new material.

I look forward to hearing from you,

Yours faithfully,



.....
Colin O'Callaghan
Chartered Town Planner
Bsc Hons Dip TP MRTPI



Parish of Killeavy Upper

PAROCHIAL HOUSE

24 CHAPEL ROAD

KILLEAVY

NEWRY

CO DOWN

BT35 8JY

028-3024 8222 To whom it may concern:

REV JAMES CLYNE

I have known Kevin Teggart since coming to this parish in 1998. In that time I have heard of the turmoil which engulfed the family in the nineteen fifties when a gas tank exploded in the family home and reduced it to rubble. The event is still widely spoken of among neighbours who lived in the area at that time.

The family home was in the townland of Seafin. This parish used the townland name to identify in parish records the address of parishioners in the rural part of the parish until the introduction of Postal Codes. Street names and house numbers were used only for urban areas of the parish in Newry.

The Teggart family got temporary accommodation in the townland of Ballymacdermott after the accident but never moved back to the location of their original home.

S J Clyne (Rev)

10 March 2018

| | | | | | | | | | |
|----------|---------|----------------------|--|------------|----------------|---------|---------|----------|---------|
| 1880.005 | Teggart | Joseph | | 15/01/1880 | Seafin | Stephen | Teggart | Bridget | McNamee |
| 1881.062 | Teggart | Peter James | | 11/09/1881 | Seafin | Stephen | Teggart | Bridget | McNamee |
| 1881.063 | Teggart | Michael | | 11/09/1881 | Seafin | Stephen | Teggart | Bridget | McNamee |
| 1887.007 | Teggart | Thomas James | | 30/01/1887 | Seafin | Stephen | Teggart | Bridget | McNamee |
| 1888.028 | Teggart | Mary Catherine | | 29/03/1888 | Seafin | Stephen | Teggart | Bridget | McNamee |
| 1890.020 | Teggart | Stephen | | 05/04/1890 | Ballymacdermot | Stephen | Teggart | Bridget | McNamee |
| 1892.077 | Teggart | Edward Paul | | 20/12/1892 | Seafin | Stephen | Teggart | Bridget | McNamee |
| 1934.047 | Teggart | Mary Brigid | | 07/11/1934 | Seafin | Joseph | Teggart | Margt | Clarke |
| 1936.007 | Teggart | Patrick Stephen | | 10/02/1936 | Seafin | Joseph | Teggart | Margt | Clarke |
| 1938.024 | Teggart | Margaret Rose | | 10/07/1938 | Seafin | Joseph | Teggart | Margaret | Clarke |
| 1940.009 | Teggart | John Joseph | | 28/02/1940 | Seafin | Joseph | Teggart | Margaret | Clarke |
| 1941.020 | Teggart | Anne Catherine | | 28/04/1941 | Seafin | Joseph | Teggart | Margaret | Clarke |
| 1943.023 | Teggart | Elizabeth Teresa | | 06/06/1943 | Seafin | Joseph | Teggart | Margaret | Clarke |
| 1944.040 | Teggart | Kevin Edward Coleman | | 18/11/1944 | Seafin | Joseph | Teggart | Margaret | Clarke |
| 1946.019 | Teggart | Lawrence Gerald | | 08/06/1946 | Seafin | Joseph | Teggart | Margaret | Clarke |
| 1950.003 | Teggart | Raymond Thomas | | 13/01/1950 | Seafin | Joseph | Teggart | Margaret | Clarke |



Land & Property Services
Seirbhísí Talún & Maoine

213

Mr Colin O'Callaghan
O'Callaghan Planning
Unit 1, 10 Monaghan Court
Monaghan Street
Newry BT35 6BH

LPS Client Services
Lanyon Plaza
7 Lanyon Place
Town Parks
BELFAST, BT1 3LP

Tel: 028 9033 6195

Email: corinne.purcell@finance-ni.gov.uk

Your reference:

Our reference: 0030

Date: 14th April 2018

Dear Mr O'Callaghan

Re: Building East of 43 Ayallogue Road, Seafin, Newry

Please find enclosed Certified Extract as requested together with receipt(s) for the fee of £71.82

Yours sincerely

A handwritten signature in blue ink that reads "C Purcell".

Corinne Purcell

| | | | | |
|------------------------|---|--------------------|----------------------|---|
| ITEM NO | 9 | | | |
| APPLIC NO | LA07/2017/0 45/F | Full | DATE VALID | 16/06/2017 |
| COUNCIL OPINION | APPROVAL | | | |
| APPLICANT | Board of Governors St Josephs High School 77 Dundalk Road Crossmaglen Newry BT35 9HP | | AGENT | Hamilton Architects Hamilton House 3 Joy Street Belfast BT2 8LE |
| LOCATION | 77 Dundalk Road Crossmaglen Newry BT35 9HP | | | |
| PROPOSAL | High School with sports facilities, open space and play areas. Access from Dundalk Road.(Additonal information on lighting levels and changes to internal access) | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 0 | 0 | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0945/F

Date Received: 16.06.2017

Proposal: High School with sports facilities, open space and play areas. Access from Dundalk Road.

Location: 77 Dundalk Road, Crossmaglen, Newry

Site Characteristics & Area Characteristics:

Site comprises of an existing school within the development limits of Crossmaglen.

Site History:

LA07/2016/1420/PAD Construction of new High School on existing site.
LA07/2016/1369/PAN Construction of new High School on existing site
P/2013/0451/F Provision of new modular building as classroom
P/2011/0920/F Proposed modular building to be used as 6th Form Study Facility.
P/2005/0077/F Erection of Double Mobile Classroom
P/2004/2108/F Extension to existing school for music suite and arts department

Planning Policies & Material Considerations:

Banbridge/ Newry and Mourne Area Plan 2015: Inside the development limits of Crossmaglen

Area Plan: Proposals do not conflict with the provisions of the area plan

PPS3, DCAN 15 and Parking Standards: Transport NI in comments dated 10.01.18 have raised no objections. Facilities incorporate pick up and set down for buses and cars within the site, with an internal one way system and an associated layby with adequate parking spaces for staff and visitors. (92 spaces provided approximately 90 spaces required)

SPPS and DES2: The site is currently used for educational purposes and will continue this use. Given the existing land use there is unlikely to be any further impact to amenity than what is already experienced at the site, no objections have

been received from residents. Floodlighting has been introduced to the site from previous although the use and hours of operation can be mitigated by conditions. Design and finishes are also acceptable in this urban context.

PPS8 (OS1 – Protection of Open Space, OS4 – Intensive Sport Facilities and OS 7 - The Floodlighting of Sports and Outdoor Recreational Facilities)

Land at the site is not zoned as protected open space however there are existing playing fields to the rear of the school. Whilst this area of open space will be lost due to the construction of the school it will nevertheless be compensated by its relocation to the front of the building. There are already existing indoor and outdoor sport facilities at the school catering for a wide range of activities. Proposals will merely replace existing with modern facilities; it is unlikely there will be any further impact to amenity above and beyond what already exists at the site and no objections have been raised in relation to this.

PPS15: Rivers Agency in comments dated 21.07.17 have raised no major concerns with FLD1, FLD2, FLD 4 and FLD 5 not applicable to this application. Rivers Agency have not indicated in their response that there are any issues in relation to historic or current surface water flooding at this location. DFI Rivers Agency Flood Maps have also been checked and there is no indication of historic, current or future surface water flooding at this location. Proposals are merely a replacement of the existing premises and hard standing therefore it is not unreasonable to insist on a planning condition to ensure a drainage assessment is provided and agreed to the satisfaction of Rivers Agency.

DCAN 10 - EIA: Screened but no requirement for an Environmental Impact Assessment

DCAN 11 - Access for All: Provision made within the development for those whose mobility is impaired

Consultations:

Transport NI (05.12.17) - No objections raised

NIW (22.04.16) - Public and foul water sewer within Dundalk Rd, no public storm sewer available - liaise with Rivers Agency, WWTW sufficient capacity

EH - Issues in relation to flood lighting and hours of operation to be resolved (The Planning Authority can attach planning conditions in relation to this)

Rivers - FLD1, 2, 4 and FLD 5 not applicable. FLD3 - Drainage Assessment required.

Objections & Representations

No objections received
Advertised July 2017
26 neighbours notified

Consideration and Assessment:

The proposed development replaces the existing school with modern facilities benefitting the local community. The overall design and layout is acceptable with proposals meeting the requirements of planning policy, on this basis it is recommended to approve the application.

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 shall commence on site until full details of the proposed flood lighting has been submitted to and agreed by the Planning Authority and agreed in writing to the satisfaction of Environmental Health.

Reason: In the interests of impact to amenity

3. No development shall commence on site until a drainage assessment has been submitted to the Planning Authority and agreed in writing to the satisfaction of Rivers Agency.

Reason: To safeguard the site and adjacent land from flooding and standing water.

4. The existing natural screenings of the site, as indicated on drawing ref: ..., date stamped received 15.08.17 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

5. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of completion of the development it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

6. 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 Practise. The works shall be carried out prior to the occupation of

any part of the development or in accordance with a programme to be agreed with the Council.

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

7. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

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

| | | | | |
|------------------------|---|------|--|------------|
| ITEM NO | 15 | | | |
| APPLIC NO | LA07/2017/1633/F | Full | DATE VALID | 19/10/2017 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | Winnie Hoey 1 Sylyne Road Bolten-Le-Sands LAG 5AG | | | |
| | | | AGENT Joseph Cotter 19 Ard Na Si Carrick Road Lis Na Darar Dundalk Co Louth | |

LOCATION Lands immediately North West and opposite to No. 17 Newry Road
Crossmaglen
Newry
Co Armagh
BT35 9BN

PROPOSAL Erection of dwelling and associated site works

| | | | | |
|------------------------|--------------------|--------------------|-----------------------------|-----------------------------|
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 0 | 0 | 0 | 0 |
| | | | Addresses Signatures | Addresses Signatures |
| | | | 0 0 | 0 0 |

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy QD 1 (Criteria A and C) of Planning Policy Statement 7 (PPS 7): Quality Residential Environments, Planning and Planning Control Principles 1 and 2 of Planning Policy Statement 12 (PPS12): Housing in Settlements as the applicant has failed to demonstrate that the proposal would create a quality residential development in that: The development does not respect the surrounding context and is not appropriate to the character of the site in terms of layout and appearance of buildings; and adequate provision has not been made for private open space and landscape areas as an integral part of the development.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy LC1 of PPS7 (Addendum) Safeguarding the Character of Established Residential Areas in that the applicant has failed to demonstrate that all of the criteria set out in Policy QD1 of PPS7: Quality Residential Environments has been met and fails to meet the additional criteria (A &B) of Policy LC1.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy DES2 of the Department's Planning Strategy for Rural Northern Ireland in that the development would, if permitted, be detrimental to the character of the surrounding area by reason of its layout and appearance which are out of character within the surrounding area as well as its relationship with surrounding buildings and views.
4. The proposed development is unacceptable in that insufficient information has been submitted to enable the Council to make an informed decision on the proposal with regards to DFI Roads response dated the 23th Jan 2018.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1633/F

Date Received: 26.10.2017

Proposal: Erection of dwelling and associated site works

**Location: Lands immediately North West and opposite to No. 17 Newry Road
Crossmaglen Newry Co Armagh BT35 9BN**

The site comprises a small parcel of land adjacent to the Newry Road. This is a small triangular plot with the roadside boundary defined by timber fencing. There is an area of concrete handstanding within the site. There is a large greenfield site to the rear of the site which falls in north westerly direction. Beyond the north east boundary there is a large two storey dwelling no. 12.

Site History: n/a

Objections & Representations

No. of neighbours notified=6

No representations received= 0

Advertise expiry= 23.11.2017

Consultations

TransportNI- additional info requested

Before DFI roads makes a decision regarding this application could you please ask the applicant to submit the following amendments,

1 Footway/ roadway to be clearly indicated and dimensioned.

2 Dwelling to be clearly indicated in relation to existing footway.

3 Sightline achievable at access point to be clearly dimensioned.

NIW- statutory

Consideration and Assessment:

The site is located within the settlement limits of Crossmaglen, within an area of whiteland and adjacent to the local landscape policy area Glenlough House, stream corridor and standing stone.

TPO attached to neighbouring property.

Policy Context

SPPS

PPS 7- Quality Residential Developments

Add PPS 7- Safeguarding residential developments

PPS 12- Housing in settlements

DES 2 PSRNI

The proposal is for a two storey detached dwelling. The proposed dwelling is to have a maximum ridge height of 7.5 metres above FFL. The neighbouring dwelling no. 12 is a large two storey dwelling, no.s 17, 14 and 10 around the site are all single storey some with roof conversions.

The proposed siting of the dwelling is positioned approximately 1.2 metres back from the boundary with the public footpath with a depth of 0.34metres between the rear façade and back boundary. The position of such a large two storey dwelling in close proximity of the road is not reflective of the surrounding context in terms of layout and appearance. The proposed development does not reflect the existing density or layout of the neighbouring properties. There is a high ratio of built form to garden area due to the size of the plot. The layout of the development on such a restricted plot does not reflect that exhibited in the surrounding area and would cause overdevelopment of the site.

Given the layout of the development in close proximity of the road, the development will have a detrimental impact on the street scene and the main views within the settlement.

The external walls are to be a render with red brick quoins and window heads. The roof is to be finished with a blue/black roof slate. The surrounding developments are a mix house types and finishes. No 12 is a of a render/ cladded finish with a slate to the roof. No 17 has a render, brown brick and stone type finish. The surrounding house types are quite sub urban in design. Given the wide range of house types in

the area and the sites position within the development limit, I feel a refusal on architectural design would be difficult to sustain.

The main property potentially impacted upon by the proposed development is no. 12. The proposed dwelling has been orientated on the site so that the rear amenity area is to the side of the dwelling away from no. 12. Having considered the position of the proposed windows facing no. 12, separation distances and that the windows face the front driveway of no. 12, it is considered no unreasonable overlooking or overshadowing of no. 12 will occur as a result of the development.

On greenfield sites and in lower density developments all housing should have an area of private open space. An area of private amenity has been indicated to the side of the property and along the road frontage. The garden depth to the side of the property is approx. 11 metres. This area of open space is approx. 40sqm. Having considered the surrounding context in terms of density the level of amenity required to that provided is not considered acceptable for the proposal. The proposed area of private amenity as indicated on the site layout is positioned to the side and along the road frontage. The proposal has not provided an area of private amenity (area for sitting out, children playing or drying/washing of clothes) given its roadside position nor would this be considered an acceptable location to provide an area of private amenity.

No proposed boundary treatment has been provided on the drawings.

The layout indicates 2 in-curtilage car parking spaces with in curtilage turning space. TransportNI has requested additional information as indicated above. Having spoken with TransportNI with regards to the scheme, they did not wish to put forward reasons for refusal as they felt their requests could be met by the applicant. This information has not been requested as the Planning Department consider the principle of the proposed development is unacceptable.

No representations or objections received.

Recommendation:

Refusal

The proposal is contrary to the the Strategic Planning Policy Statement for Northern Ireland and Policy QD 1 (Criteria A and C) of Planning Policy Statement 7 (PPS 7): Quality Residential Environments, Planning and Planning Control Principles 1 and 2 of Planning Policy Statement 12 (PPS12): Housing in Settlements as the applicant has failed to demonstrate that the proposal would create a quality residential development in that:

- **The development does not respect the surrounding context and is not appropriate to the character of the site in terms of layout and appearance of buildings; and**
- **adequate provision has not been made for private open space and landscape areas as an integral part of the development;**

The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy LC1 of PPS7 (Addendum) Safeguarding the Character of Established Residential Areas in that the applicant has failed to demonstrate that all of the criteria set out in Policy QD1 of PPS7: Quality Residential Environments has been met and fails to meet the additional criteria (A &B) of Policy LC1.

The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy DES2 of the Department's Planning Strategy for Rural Northern Ireland in that the development would, if permitted, be detrimental to the character of the surrounding area by reason of its layout and appearance which are out of character within the surrounding area as well as its relationship with surrounding buildings and views.

The proposed development is unacceptable in that insufficient information has been submitted to enable the Council to make an informed decision on the proposal with regards to DFI Roads response dated the 23th Jan 2018.

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| | | | | |
|------------------------|---|--------------------|-----------------------------|--|
| ITEM NO | 17 | | | |
| APPLIC NO | LA07/2017/1697/F | Full | DATE VALID | 03/11/2017 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | Mr S Hughes 2 Barrawully Road Jonesborough Newry BT35 8FR | | AGENT | Tony McQuade 26 St Malachys Park Camlough Newry BT35 7LG |
| LOCATION | 90m North of 21 Barrawully Road Jonesborough Newry (previously Aghadovyle Road) | | | |
| PROPOSAL | Erection of dwelling and garage (change of house type and garage to that approved under P/2005/1285/O and P/2008/1063/RM) | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 0 | 0 | 0 | 0 |
| | | | Addresses Signatures | Addresses Signatures |
| | | | 0 0 | 0 0 |

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.



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an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1697/F

Date Received: 06/11/2017

Proposal: Erection of dwelling and garage (change of house type and garage to that approved under P/2005/1285/O and P/2008/1063/RM)

Location: 90m North of 21 Barrawully Road Jonesborough Newry (previously Aghadvoyle Road)

At the time of inspection the site had been partially cleared and sight splays in place. There are two single storey buildings currently on the site. The site beyond these buildings falls with the natural gradient of the land in an easterly direction. The north and eastern boundaries of the site are currently defined by timber post and wire fencing and low lying hedgerow with randomly dispersed trees. The western boundary is not defined as the site is part of a larger agricultural field.

The site is located within the countryside and An Area of Outstanding Natural Beauty as defined in the Banbridge, Newry and Mourne Area Plan 2015.

Site History:

P/2005/1285/O- Site for dwelling & garage- approval- 27th Sept 2005

P/2008/1063/RM- Erection of dwelling and garage- approval- 7th Nov 2008

Objections & Representations

No. of neighbours notified=1

No representations received= 0

Advertise expiry= 07.12.2017

Consultations

TransportNI- no objections

Consideration and Assessment:

The applicant is seeking an amended house type on a site in which planning permission has expired. The onus is on the agent/applicant to demonstrate that development of the previously approved dwelling had commenced prior to the expiry of that decision, 6th Nov 2010. As there were two pre-commencement conditions attached to the outline approval which is tight into the RM approval, the onus was also on the agent/applicant to demonstrate compliance with such conditions. These conditions related to the access and to the removal of buildings. The agent has supplied a building contractor receipt dated the 20th Sept 2010 for excavation work carried out, sight lines formed and removal of the old dwelling house. From Google streetview it is not clear that the pre-commencement conditions had been complied with within the require timeframe. It is clear that the buildings had been demolished and sightlines formed in April 2011 but there is no evidence to show that this had taken place before the expiry date, 6th Nov 2010.

The agent provided a letter which had been issued by the previous planning authority on the 26th Sept 2008 regarding commencement of development. This letter does not appear related to this particular site given the RM application was not approved until Nov 2008. There is no evidence to suggest that any works with regards to development had commenced in the form of foundations prior to the expiry of the application. Compliance with pre-commencement conditions and excavation works, if these were to be proved do not constitute development having commenced.

As the agent/applicant has not confirmed that the development as approved under P/2008/1063/RM, commenced within the stipulated timeframe, the Planning Department would consider that the permission has lapsed.

No justification has been provided for a new dwelling on the site in line with the prevailing policy. The proposal is therefore considered contrary to PPS 21 CTY1.

The proposed house is to be single storey with a ridge height of 6 metres above FFL with a single storey detached garage to the side and rear. The proposed dwelling will be no more prominent in the landscape than that previously approved. The plans show the existing north/east boundaries to be retained and augment with additional trees. The site and roadside frontage to be defined by timber post and wire fencing with native species hedgerow and trees to aid integration. The design of the dwelling creates a good solid to void ratio with the windows having a vertical

emphasis. In terms of size and scale and layout the dwelling is similar to that previously approved. I have some concern with regards to the front porch as it is quite dominant and out of proportion, will require a slight reduction in height.

The proposal access is as previously approved, TransportNI have been consulted with regards to the application and have returned with no objection. The dwelling and associated works including the access will not cause a detrimental change to, or further erode the rural character of the surrounding area.

Recommendation:

Refusal- CTY 1 and CTY 13- design

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To whom it may concern,

I, myself, Mr. S Hughes and my agent wish to present on application number; LA07/2017/1697/F at the planning committee meeting on Wednesday 11th April 2018.

The issue is whether or not the existing planning permission is preserved. I am of the opinion that it is.

In support of this, I attach a copy of the receipt from the contractor dated 20/09/2010. Also attached are 2 letters from the Department advising applicants in relation to commencement of work, which were widely circulated at the time.

Please see attached;

1. Copy of receipt from contractor dated 20/09/2010
2. Generic letter from the Divisional Planning Manager dated 26th September 2008
3. Specific letter in relation to planning application ref: P/2007/1090/F

I am therefore satisfied that I have preserved planning permission by making a material start.

Yours Sincerely,

Mr. S. Hughes



Your Ref:
Our Ref: FOI 19415

Being dealt with by:

Divisional Planning Office

Date: 26 September 2008

Marlborough House
Central Way
Craigavon
BT64 1AD

Mr Martin J Baillie MCIAT
Martin Baillie Architectural Services Limited
92 Newry Street
Rathfriland
Newry
BT34 5PY

LA/2015/0203/F

Dear Mr Baillie

Thank you for your letter of 15 September 2008 requesting information about the commencement of development in relation to planning permission.

Every new planning permission is deemed to be subjected to a condition that development shall be commenced within five years or such other period as the planning authority may expressly impose. An outline planning permission has two timescales and the consent will require the submission of a further planning application for the approval of reserved matters within 3 years. Once the last of the reserved matters has been approved, there is usually a two year period within which the development must commence.

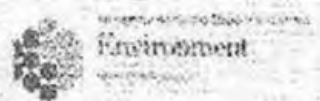
No definitive ruling can be given with regard to when development is commenced, as so much will depend on the facts of each case. However, development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out. Generally speaking the construction of an access or the layout of foundations, provided they are in accordance with the approved plans, would be sufficient to indicate that development had begun.

You should therefore satisfy yourself that a material start has been made in accordance with the above prior to the expiration of your planning permission.

I hope this is helpful.

Yours sincerely

IAN McALLISTER
For Divisional Planning Manager



Date: 20 March 2009
 Our Ref: P/2007/1090/F (FOI 20278)
 Being dealt with by : Julie Brown



Divisional Planning Office

Marlborough House
 Central Way
 Craigavon
 BT64 1AD

Mr D Mallon
 3 Ayalogue Road
 Newry
 BT35 8QY

Dear Mr Mallon

Location: Adjacent to No.4 Low Road, Ayaloghue, Newry

Proposal: Erection of dwelling and garage in compliance with conditions on approval P/2002/1210/O

I refer to your correspondence dated 10 February 2009 regarding the above planning application.

I can advise that generally speaking the construction of an access, provided it is in accordance with the approved plans, would be sufficient to indicate that development had begun. Unfortunately Planning Service does not currently have the resources to carry out inspections of works undertaken.

Yours sincerely

J Brown

for Divisional Planning Manager



An Agency within the Department of the
Environment
 www.doe.gov.uk

Tel. (028) 3834 1144 Fax (028) 3832 0004
 Email. divisional.planning.offices.craigavon@nics.gov.uk
 Web. www.planningni.gov.uk



INVESTOR IN PEOPLE

| | | | | |
|------------------------|--|--------------------|----------------------|--|
| ITEM NO | 19 | | | |
| APPLIC NO | LA07/2017/1802/F | Full | DATE VALID | 24/11/2017 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | Mrs Bridget Hasson 35 Tullymacrieve Road Mullaghbawn Newry BT35 9RE | | AGENT | J Lynam RIBA Chartered Architect 11 Newry Road Mayobridge Newry BT35 9RE |
| LOCATION | 80m North east of No 50 Malahy Conlon Park Cullaville Road Cullaville Newry | | | |
| PROPOSAL | Proposed infill dwelling and domestic garage | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | |
| | 0 | 0 | 0 | |
| | | | Addresses | Signatures |
| | | | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site in an otherwise substantial and continuously built up frontage that respects the existing development pattern, and would, if permitted, result in the addition of ribbon development along Cullalive Road.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings;
 - the dwelling would, if permitted add to a ribbon of development;
 - and would therefore result in a detrimental change to further erode the rural character of the countryside.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Cullalive and the surrounding countryside and result in urban sprawl.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1802/F

Date Received: 27.11.2017

Proposal: Proposed infill dwelling and domestic garage

Location: 80m North east of No 50 Malachy Conlon Park Cullaville Road Cullaville Newry

The site is located within the countryside as defined in the Banbridge, Newry and Mourne Area Plan 2015.

At the time of inspection the existing roadside screening was still intact. There was a new dwelling constructed up to the rafters north east of the site and the sub floor of another dwelling to the south west. The boundaries of the site are currently undefined.

Site History:

n/a

see report for surrounding planning history.

Objections & Representations

No. of neighbours notified=19

No representations received= 0

Advertise expiry= 28.12.2017

Consultations

TransportNI- no objections subject to conditions

NIW- statutory

Consideration and Assessment:

The site is located within the countryside context therefore the provisions of PPS 21 will apply to this case. The application has been submitted for dwelling on an infill site. The application will be assessed against Policies CTY 1, 8, 13, 14 & 15.

An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

The application site is positioned between a new dwelling currently under construction which is up to the rafters (P/2014/0105/F) and the sub floor of another dwelling under construction (P/2006/0918/RM). The sub floor of a dwelling cannot be counted as a building. It is noted that this dwelling as approved has a frontage to the Cullalive Road. Beyond the dwelling which has been constructed to the rafters there is an existing single storey dwelling no 125A and beyond this again number 125. Neither 125 nor 125A have frontages to the Cullalive road. The dwelling constructed to rafters stage, although on site the plot is not defined at present the approved plans (P/2014/0105/F) indicate that this dwelling also does not have a frontage to the Cullalive Road.

The policy states that development of a small gap site will only be accommodated within an otherwise substantial and continuously built up frontage. The built up frontage must include a line of 3 or more buildings along a frontage. The site fails to meet this requirement as the gap is not sited within a continuous build up frontage.

As stated above the site is positioned between a dwelling currently under construction up to roof rafters and the sub floor of another. At present the boundaries between the sites are undefined. The roadside boundary is defined by mature trees and hedgerow. The boundaries of the site are to be defined by timber

post and wire fencing with a new hawthorn hedgerow and randomly dispersed trees. The removal of the existing roadside screening for the required splays will open up the site. The site will rely heavily on additional landscaping to enable the proposal to successfully integrate on site. However a refusal on such grounds would be difficult to sustain given the neighbouring approval (P/2006/0918/RM) which is currently up to sub floor which requires the removal a lot of this natural screening. The proposal is for a 1 ½ storey dwelling with a ridge height of 7.2 metres above FFL. The size, scale, massing and design are the same as that approved under P/2006/0918/RM. Therefore the proposal is in keeping with that in the immediate area and will cause no issues with regards to prominence. The design is sympathetically to the rural area with traditional finishes.

The proposal would result in a suburban style build up when viewed with the existing and approved buildings and add to a ribbon of development along the Cullalive Road. The proposal is contrary to CTY 14.

The site is in close proximity to the settlement limit of Cullalive. The settlement limit is principally drawn to partly promote and contain development within that limit and so a clear distinction between the settlement and countryside should be maintain. Given the existing builds and approval surrounding the site it is felt another dwelling along this stretch of the road with mar this distinction and result in urban sprawl.

Recommendation:

Refusal

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.....

ITEM NO 20

APPLIC NO LA07/2017/1804/F Full **DATE VALID** 23/11/2017

COUNCIL OPINION **REFUSAL**

APPLICANT Mr Paddy Murphy 43 Conway Park
Mullaghbawn
Newry
BT35 9TS **AGENT** Patrick Bradley
Architects 30
Gortinure Road
Maghera
BT46 5PA

LOCATION Site approximately 300m west of 11 Cranny Road
Newry
BT35 9XR

PROPOSAL Change of house type (previously approved under P/2008/0396/F)

| REPRESENTATIONS | SOBJ Letters | SUP Letters | OBJ Petitions | | SUP Petitions | |
|------------------------|---------------------|--------------------|----------------------|-------------------|----------------------|-------------------|
| | 0 | 0 | 0 | | 0 | |
| | | | Addresses | Signatures | Addresses | Signatures |
| | | | 0 | 0 | 0 | 0 |

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1804/F

Date Received: 28.11.2017

Proposal: Change of house type (previously approved under P/2008/0396/F)

Location: Site approximately 300m west of 11 Cranny Road Newry BT35 9XR

The site is located on lands west of no. 11 Cranny Road. At the time of inspection it was clear that foundation/subfloor had commenced. The site is positioned above the adjacent road level with the access clearly in place. The site sits approximately

The site is located within the countryside and An Area of Outstanding Natural Beauty as defined in the Banbridge, Newry and Mourne Area Plan 2015.

Site History:

P/2008/0396/F - Erection of dwelling and garage removal of conditions 5&6 (siting and ridge height of 5.5 removed) of outline approval P/2004/0088-approval- 6th Nov 2009

P/2004/0088/O- Erection of dwelling and garage- approval- 14th July 2004

Objections & Representations

No. of neighbours notified=1

No representations received= 0

Advertise expiry= 28.12.2017

Consultations

TransportNI- no objections

NIW- statutory

Consideration and Assessment:

The applicant is seeking an amended house type on a site in which planning permission has expired. The onus is on the agent/applicant to demonstrate that development of the previously approved dwelling had commenced prior to the expiry of that decision, 5th May 2010. As there was a pre-commencement condition with regards to the access including the visibility splays attached to the previous approval the applicant had to form the splays before the development commence to comply with this condition. From consultation with TransportNI they have confirmed that they have no objections to the existing access and splays. Having reviewed the previous approval P/2008/0396/F, the proposed red line accompanying this application extends beyond that previously approved. It is noted that the access and splays in place are not in the correct position as previously approved having been repositioned 33 metres to the south east of that approved.

The Councils building control records show that an inspection of the foundations occurred on the 23rd July 2010, outside the required period.

As previously stated the proposed red line accompanying this application extends beyond that previously approved. It is also notable that the footprint of the dwelling extends beyond the approved curtilage with only a small fraction of the development within the approved curtilage of P/2008/0396/F. Therefore, the works which had commenced outside of the required timeframe do not reflect those works previously approved under P/2008/0396/F and the Planning Department would consider that the permission has lapsed.

No justification has been provided for a new dwelling on the site in line with the prevailing policy. The proposal is therefore considered contrary to PPS 21 CTY1.

The proposal is for a 1 1/2 storey contemporary style dwelling. The proposal is to have a ridge height of 7 metres above FGL which is 0.9 above that previously approved. Although at the time of inspection the area surrounding the footprint of the development was relatively level, no FFL of the proposal or ground levels have been annotated on the layout. Given the position of the development in the landscape levels/sections are critical to the assessment. The proposal shows the dwelling is to be sited further back from the roadside boundary than that previously approval. Given the extensive backdrop to the site and its position above the adjacent ground level and the surrounding long distance views from the

neighbouring Back road and Cranny Road, it is felt that the proposal in terms of scale and massing is acceptable.

The proposed design creates a good solid to void ratio with the use of contrasting contemporary materials to reduce the solid massing. Having considered the proposal against that previously approved and taking into consideration the approved developments in the area it can be considered that the proposal in terms of size, scale and design is in keeping with the surrounding character and will be no more prominent in the landscape.

The dwelling and associated works including the access will not cause a detrimental change to, or further erode the rural character of the surrounding area.

Recommendation:

**Refusal- CTY 1- pre-commencement issue
Lack of information- FFL level and Ex/Pro Ground levels**

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ITEM NO 21
APPLIC NO LA07/2017/1866/F Full **DATE VALID** 08/12/2017
COUNCIL OPINION REFUSAL

APPLICANT Mr and Mrs Murphy 10
 Callaghans Road Silverbridge Newry
 BT35 9PA

AGENT Blackgate Property Services Ltd Mourne House
 41-43 Downshire
 Road Newry BT34 1EE

LOCATION Approximately 35 meters North West of No. 44 Mullaghduff Road
 Ballynarea
 Cullyhanna
 BT35 0LE

PROPOSAL Erection of dwelling and garage (change of house type and access position from that previously granted under planning application (P/2006/2029/RM) with new landscaping and associated site works).

1. The proposal is contrary to the SPPS and Policy CTY 1 of PPS 21 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | | SUP Petitions | |
|-----------------|-------------|-------------|---------------|------------|---------------|------------|
| | 0 | 0 | 0 | | 0 | |
| | | | Addresses | Signatures | Addresses | Signatures |
| | | | 0 | 0 | 0 | 0 |



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1866/F

Date Received: 11.12.2017

Proposal: Erection of dwelling and garage (change of house type and access position from that previously granted under planning application (P/2006/2029/RM) with new landscaping and associated site works).

Location: Approximately 35 meters North West of No. 44 Mullaghduff Road Ballynarea Cullyhanna

The site is located within the countryside as defined in the Banbridge, Newry and Mourne Area Plan 2015.

At the time of my inspection there was evidence of foundations and a sub structure having been constructed within the site.

Site History:

P/2006/2029/RM- Erection of dwelling and garage- approval- 13/08/2007

P/2005/2047/O- Erection of dwelling and garage- approval- 16/11/2005

Objections & Representations

No. of neighbours notified=4

No representations received= 0

Advertise expiry= 25.01.2018

Consultations

TransportNI- no objections

NIW- statutory

Consideration and Assessment:

The applicant is seeking an amended house type on a site in which planning permission has expired. The onus is on the agent/applicant to demonstrate that

development of the previously approved dwelling had commenced prior to the expiry of that decision, 15th Nov 2010, no evidence was submitted as part of this application. As there was a pre-commencement condition attached to the previous approval the onus was also on the agent/applicant to demonstrate compliance with this condition. From the aerial photography it not clear that the pre-commencement condition had been complied with within the require timeframe.

From aerial photography it is clear that foundations had commenced on site as early as Feb 2010 with more detail founds evident in April 2010. These works are clearly in place prior to the expiry of the previous approval. However, as stated above there is no evidence to suggest that the developer had enacted the pre-commencement condition with regards to the access/splays. As the agent/applicant has not supplied any evidence to confirmed that the pre-commencement condition had been complied with, within the stipulated timeframe, the Planning Department would consider that the permission has lapsed.

No justification has been provided for a new dwelling on the site in line with the prevailing policy. The proposal is therefore considered contrary to PPS 21 CTY1.

The proposed house is to be 2 storey with a ridge height of 9 metres above FFL with a single storey detached garage. The proposed dwelling given the neighbouring two storey dwelling north west of the site will not be a prominent feature in the landscape. The plans show the existing roadside screening to be removed to provide new splays. The plans show a new hedgerow and trees to be planted along the side and rear boundaries. This hedgerow and trees will ensure that the applicant has a private amenity area whilst protecting that associated with no. 44. The proposed design incorporates a first floor balcony to the side facing no. 44. Having considered the separation distance and the position of the balcony facing the front area of the neighbouring property, no unreasonable overlooking should occur between the units. The boundary hedgerow between the properties should be conditioned to be retained at a minimum height of 2metres. The design of the dwelling is in my opinion appropriate of the site and its locality. The dwelling is of a similar design to that exhibited in the surrounding area.

The proposal includes an amendment to the access, bringing the entrance to the northern corner of the site away from the adjoining property. TransportNI have been

consulted with regards to the amendment and have returned with no objection subject to conditions. The dwelling and associated works including the access will not cause a detrimental change to, or further erode the rural character of the surrounding area.

Recommendation:

Refusal- CTY 1

.....

.....



Reference: LA07/2017/1866/F

Applicant Name: Mr and Mrs Murphy

Proposal: Erection of dwelling and garage (change of house type and access position from that previously granted under planning application (P/2006/2029/RM) with new landscaping and associated site works)

Site Location: Approximately 35 meters North West of No. 44 Mullaghduff Road, Ballynarea, Cullyhanna, BT35 0LE

Refusal Reason:

- The proposal is contrary to the SPPS and Policy CTY 1 of PPS 21 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

Consideration

The case officer report for this application identifies the lack of information regarding the discharge of a pre-commencement condition regarding the approved access to the site. The Case officer has confirmed that the foundations for the dwelling approved under application P/2006/2029/RM were in place before the expiry date of 15th Nov 2010.

The Planning Act (Northern Ireland) 2011 came into operation on the 1 April 2015 and replaced the Planning (Northern Ireland) Order 1991. The application therefore relates to events relevant to the time of the Planning Order, it is therefore necessary to consider the matters in the context of the prevailing legislation at the time when the planning permission was extant on the site.



The purpose of Article 34 of the Planning (NI) Order 1991, which relates to the duration of planning permission, is to bring to an end permissions not begun within a specified period in order to prevent an accumulation of unimplemented permissions and allow proposals to be reviewed periodically in light of changing circumstances.

Article 36 (1) states that development is taken to be begun on the earliest date on which any of the operations specified in subsections (a) to (d) comprised in the development begins to be carried out. Because the approved development included the erection of buildings, Article 36(1) (a) applies in this case. It therefore must be determined if the works undertaken by the appellant involved any work of construction in the course of the erection of the buildings.

Condition 2 required works to be undertaken before the commencement of development on the site. The condition stated as follows:

“The vehicular access, including visibility splays and any forward sight line, shall be provided in accordance with the approved plans, prior to the commencement of any works or other development hereby permitted.”

A building control inspection was carried out by Newry & Mourne District Council on Tuesday 29th October 2009 to assess the foundation trenches. After this the trenches were filled with concrete. In order to access the site to carry out these works it was necessary to first construct the access to the site. **Appendix 1** below contains details of the works carried out by Ciaran Clarke Plant Hire & Groundworks on the site on behalf of Mr Noel Quinn (the original applicant).



The works include:

- On Thursday 22nd and Friday 23rd October 2009 a road access to the site was created and the visibility splays formed, which included the hardcored access, removal of a section of trees and hedgerow and significant cutting back of the existing tree line with a mechanical flail as per the planning layout.
- The location of the proposed house was marked out with timber pegs and marker spray.
- On Monday 26th October 2009 the site was cleared and trenches dug out marking the position of the house.
- On Tuesday 27th October 2009 a Building Control officer inspected the trenches for the house before concrete was poured.
- The site was then secured by a post and wire fence.

These works carried out by the contractor provide a clear timeline of the events discharging the pre-commencement condition and the commencement of building works on the approved dwelling.

Appendix 2 below provides details of the approved site layout. The notes on the drawing read "Dotted line across site frontage denotes extent of ex. Hedges, fences and trees to be removed to accommodate new v. splays. Where possible trees along site frontage to be retained."

The area of frontage to be removed measures approximately 15m.

Appendix 3 includes an image taken from Google Maps and is dated 11th April 2010, **seven months before the expiration of the application**. The image identifies the application site,



which includes details of foundations in place. Also evident in the image is the existing access to the site, with the requisite roadside boundary already removed.

Appendix 3 also contains two images from Google Streetview. The first image is dated September 2009 and identifies the site a month before construction works commenced. The second image is dated March 2011 and identifies the site with the access works completed. This image along with the Google Maps image dated 11th April 2010 provides conclusive evidence that the access arrangements were indeed carried out before the application expired.

This evidence is corroborated by the Contractor's details of the construction works on the site.

It is therefore contended that works to the site were commenced in accordance with the approved plans more than 1 year before the application expiry date.

In this respect it is requested that the recommendation for this application is overturned and the application approved.



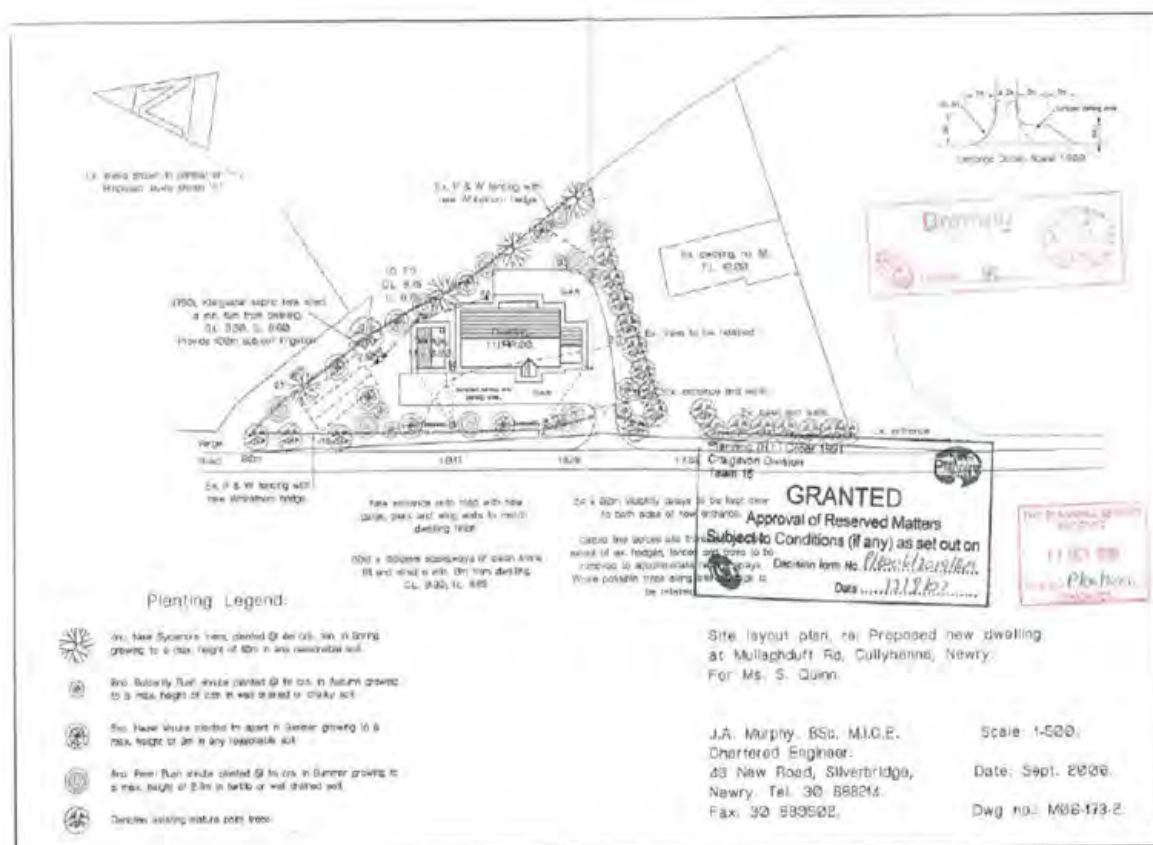
Appendix 1

Details of Commencement Works



Appendix 2

Approved Site Layout



Approved Site Layout



Appendix 3

Historical Photographs



Google Earth 11th April 2010



Google Streetview - September 2009



Google Streetview – March 2011

**Local Planning Office**

Newry, Mourne & Down District Council

Monaghan Row

Newry

BT35 8DJ

30th March 2018

Re: Development Site on lands approximately 35m North-West of No. 44 Mullaghduff Road, Cullyhanna, for Mr & Mrs Murphy

To whom it may concern,

Further to your request for information relating to the works carried out to the above development site upon lands approximately 35m North-West of No. 44 Mullaghduff Road, Cullyhanna. I can advise the following;

We were instructed by Mr Noel Quinn (Mrs Murphys Father) to carry out works to a development site adjacent to his dwelling house and just north of No. 44 Mullaghduff Road, Cullyhanna.

- On Thursday 22nd and Friday 23rd October 2009, we commenced by creating a road access to the site, formed the road visibility splays, which included the hardcore access, removal of a section of trees and hedgerows and significantly cut back some of the existing tree line with a mechanical flail as per the site layout planning drawing provided by Mr Quinn.
- The location of the proposed house was marked out with timber pegs and marker spray.
- On Monday 26th October 2009, the site was cleared of top soil to a spoil heap and trenches were excavated out with final marking out of the position of the proposed dwelling house.
- On Tuesday 27th October 2009, a Building Control officer from Building Control inspected the foundations for the house, before we poured them with concrete.
- The site was then secured by a post and wire fence.

I trust you will find this information is useful, however if you have any queries please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Clarke'.

Ciaran Clarke


ciaranclarke
plant hire & groundworks

Ciaran Clarke
Thomastown
Littlemills
Dundalk
Co.Louth

T: 042 93 36986
F: 042 93 36986
M: 085 101 6636
E: info@ciaranclarke.ie

Customer Details:
Noel Quinn
44 Mullaghduff Rd
Cullyhanna

Invoice Number: 14
Invoice Date: 14/12/2009

| DESCRIPTION | AMOUNT |
|--|----------------|
| Formed road splays. Created road to site dug foundations and pored concrete. 35hrs 13tonne diggeer Labour supplied | €1225 € 400 |
|  | |
| VAT NO 7685271R | €1,162.50 |
| VAT TO BE PAID BY PRINCIPAL CONTRACTOR | €0.00 |
| | €1625 |

Bank Account Details: Bank of Ireland, Clanbrassil Street, Dundalk, Co.Louth
Account No: 56975907 Sort No: 90 3365

ciaranciarke

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Services:

- Site clearance
- Concrete pouring, silage yards, footpaths and finished floors etc.
- Foundations and footings
- Concrete repairs
- Landscaping
- Driveways
- Cobblelocking
- Sewerage
- Foul and rainwater
- Septic tanks
- Percolation areas
- Soak holes



Welcome

Ciaran Clarke Plant Hire & Groundworks is a professional contractor based in Dundalk, Louth, Ireland.

With a wide range of experience ranging from small to large scale projects we have the capabilities and expertise to address any of our customer's unique needs.

The majority of our work is concentrated in the North East of Ireland area but projects are also undertaken in the greater Leinster area. We ensure that the protection of health and safety is an integral part of day to day operations management.

Ciaran Clarke Plant Hire & Groundworks is C2 registered, fully insured and all our qualified team of professionals carry a safe pass with relevant machinery tickets.

If you would like further information on our company then please do not hesitate to contact us.

Ciaran Clarke

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plant hire & groundworks

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www.ciaranclarke.ie

Ciaran Clarke
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T. 042 93 36986

F. 042 93 36986

M. 085 1016636

E. info@ciaranclarke.ie

ITEM NO 22
APPLIC NO LA07/2018/0210/F Full **DATE VALID** 05/02/2018
COUNCIL OPINION REFUSAL
APPLICANT Henry Noel Quinn C/O Agent **AGENT** Bernard Dinsmore
 Chartered Architect 24a Duke Street Warrenpoint BT34 3JY

LOCATION 260m South East of No.4 (Brackenagh Hall) Mission Road
 Ballymartin
 Kilkeel
 Co Down

PROPOSAL Change of House Type for that approved under P/2004/1287/O and P/2007/0613/RM

| | | | | |
|------------------------|--------------------|--------------------|-----------------------------|-----------------------------|
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 0 | 0 | 0 | 0 |
| | | | Addresses Signatures | Addresses Signatures |
| | | | 0 0 | 0 0 |

- 1 The proposal is contrary to the provisions of SPPS and 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.



Comhairle Ceantair
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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/0210/F

Date Received: 05.02.2018

Proposal: Change of house type for that approved under P/2004/1287/O and P/2007/0613/RM

Location: 260m SE of no 4 (Brackenagh Hall) Mission Road, Ballymartin.



Site Characteristics & Area Characteristics:

The site in question is a flat agricultural field located away from Mission Road, the boundaries are stone wall boundaries, a strong characteristic of the area. East of the site is a vehicular access to no 17 Mission Road, south west of the site is an agricultural access lane and will also serve a dwelling with extant approval. The site and immediate surrounds are flat lands with limited vegetation, typical of the immediate vicinity.

The area is a rural area not located within any settlement development limits as defined in the Banbridge/Newry and Mourne Area Plan 2015. The site is located within the Mourne Area of Outstanding Natural Beauty.

Site History:

P/2007/0613/RM – 260m SE of 4 (Brackeniagh hall), Mission Road. Erection of farm retirement dwelling and garage – granted 3-10-2008.

P/2004/1287/O – 260m SE of no 4 (Brackenaigh Hall), Mission Road - site for farm retirement dwelling and garage – 26-10-2005 – granted.

Planning Policies & Material Considerations:

The application presented is done so on the basis of a change of house type for previously approved dwelling under outline permission P/2004/1287/O and P/2007/0613/RM and therefore the Authority must be content that the previous permissions have been enacted to ensure that development complies with relevant policy provision.

The approval for the dwelling previously approved expired 20th October 2010 and while information relating to building control evidence has been submitted and building control has indicated that foundations were inspected on 4th October 2010 and were found to be satisfactory there is no physical evidence of development on the ground with the lands remaining in an agricultural state. The evidence supplied in relation to building control does not specify the level of works inspected and would not be considered to offer verifiable evidence of works commenced to a suitable standard to constitute development and the clear intention to develop the site.

It is also noted that condition 4 of the previous permission P/2007/0613/RM (condition 17 of outline approval P/2004/1287/O) states that the vehicular access, including visibility splays and any forward sight line shall be provided in accordance with the approved plans prior to any works or other development hereby permitted. Transport NI has confirmed that sight lines have not been provided therefore this condition has not been adhered to. In the absence of these works and insufficient evidence of a clear intention to commence works visible on site it is not considered that the previous approval has been commenced.

Consultations:

NI Water was consulted and responded with no objections to the proposal. Transport NI has responded with no objections however has attached conditions of access arrangements.

Objections & Representations

The application was advertised in the local press 19th April 2017 which expired 3rd May 2017. One neighbour notification was issued 10th April 2017 which expired 24th April 2017, to date there have been no representations made in relation to the application.

Consideration and Assessment:

Given that the applicant has failed to demonstrate through the submission of a Certificate of Lawfulness Application that the development has commenced, nor is there any physical evidence on site to demonstrate the commencement of works and also given that pre commencement conditions have not been adhered to it is not considered that the previous permission has commenced. Therefore this application falls within none of the provisions set out in CTY 1 of PPS 21 and as such is not considered acceptable. There has been no justification for a dwelling submitted along with the application in terms of CTY 1 and as the dwelling falls within none of the exceptions outlined in CTY 1 this application should be refused despite the overall scheme presented offering no further conflicts in relation to the remainder of policies outlined in PPS 21.

Recommendation:

Refusal

Reason for refusal:

The proposal is contrary to SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement and it has not been demonstrated that development of the previously approved dwelling approved under P/2004/1287/O and P/2007/0613/RM had commenced.

Case officer:**Authorised by:****Date:**

STATEMENT IN SUPPORT OF

PROPOSAL: CHANGE OF HOUSETYPE TO THAT APPROVED UNDER
P/2004/1287/O and P/2007/0613/RM

ADDRESS: 260M SOUTH EAST OF NO. 4 (BRACKENAGH HALL) MISSION ROAD
BALLYMARTIN
KILKEEL
CO. DOWN

APPLICANT: HENRY NOEL QUINN

REF: LA07/2018/0210/F

BD 4TH APRIL 2018

Principle of Development

- Outline Planning Permission was granted 20th October 2005
- Reserved Matters Permission was granted 11th February 2008
- Development Commenced prior to 20th October 2010
- Building Control confirmed that garage foundations were inspected prior to 20th October 2010.
- Photographic evidence of the foundation excavation was submitted to Planning Services on 19th January 2018 (attached).

The issue is whether, or not the existing planning permission is preserved. The applicant is of the firm opinion that it is.

The applicant was advised by Planning Services in 2010 that the construction of the garage foundation, provided they were in accordance with the approved plans, would be sufficient as a material start to the development.

This advice, which prevailed at the time, is also evidenced by:

1. Generic letter from the Divisional Planning Manager dated 26th September 2008 (attached), and
2. Specific letter in relation to Planning Application ref: P/2007/1090/F (also attached).

The applicant duly constructed the garage foundations in accordance with this advice and with the approved plan. He was therefore satisfied that he had preserved his planning permission by making a material start.

Summary

I confirm that I will be speaking in support of this applicant.

I also confirm that the applicant's daughter, Patrina Cunningham will attend to confirm advice given to Mr. Quinn prior to construction of foundations.

It is clear that development was commenced, and planning permission preserved prior to expiry date in accordance with formal advice from DOE Planning Services, and as evidenced by the photograph submitted on 19th January 2018. This photograph is not referred to in the Professional Planners Report.

Your Ref:

Our Ref: FOI 19415

Being dealt with by:

Date: 26 September 2008

Mr Martin J Bailie MCIAT
 Martin Bailie Architectural Services Limited
 92 Newry Street
 Rathfriland
 Newry
 BT34 5PY



Divisional Planning Office

Marlborough House
 Central Way
 Craigavon
 BT64 1AD

Dear Mr Bailie

Thank you for your letter of 15 September 2008 requesting information about the commencement of development in relation to planning permission.

Every new planning permission is deemed to be subjected to a condition that development shall be commenced within five years or such other period as the planning authority may expressly impose. An outline planning permission has two timescales and the consent will require the submission of a further planning application for the approval of reserved matters within 3 years. Once the last of the reserved matters has been approved, there is usually a two year period within which the development must commence.

No definitive ruling can be given with regard to when development is commenced, as so much will depend on the facts of each case. However, development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out. Generally speaking the construction of an access or the layout of foundations, provided they are in accordance with the approved plans, would be sufficient to indicate that development had begun.

You should therefore satisfy yourself that a material start has been made in accordance with the above prior to the expiration of your planning permission.

I hope this is helpful.

Yours sincerely

IAN McALLISTER
 For Divisional Planning Manager



An Agency within the Department of the
Environment
 www.environment.gov.uk

Tel. (028) 3834 1144 Fax. (028) 3832 0004
 Email. divisional.planning.office.craigavon@nics.gov.uk
 Web. www.planningni.gov.uk



INVESTOR IN PEOPLE



Date: 20 March 2009
 Our Ref: P/2007/1090/1 (JCN 20278)
 Being dealt with by: Julie Brown

Divisional Planning Office

Westborough House
 Central Way
 Cradock
 BT64 1AD

Mr D Mallon
 3 Ayalloghuc Road
 Newry
 BT35 8QY

Dear Mr Mallon

Location: Adjacent to No. 4 Low Road, Ayalloghuc, Newry.

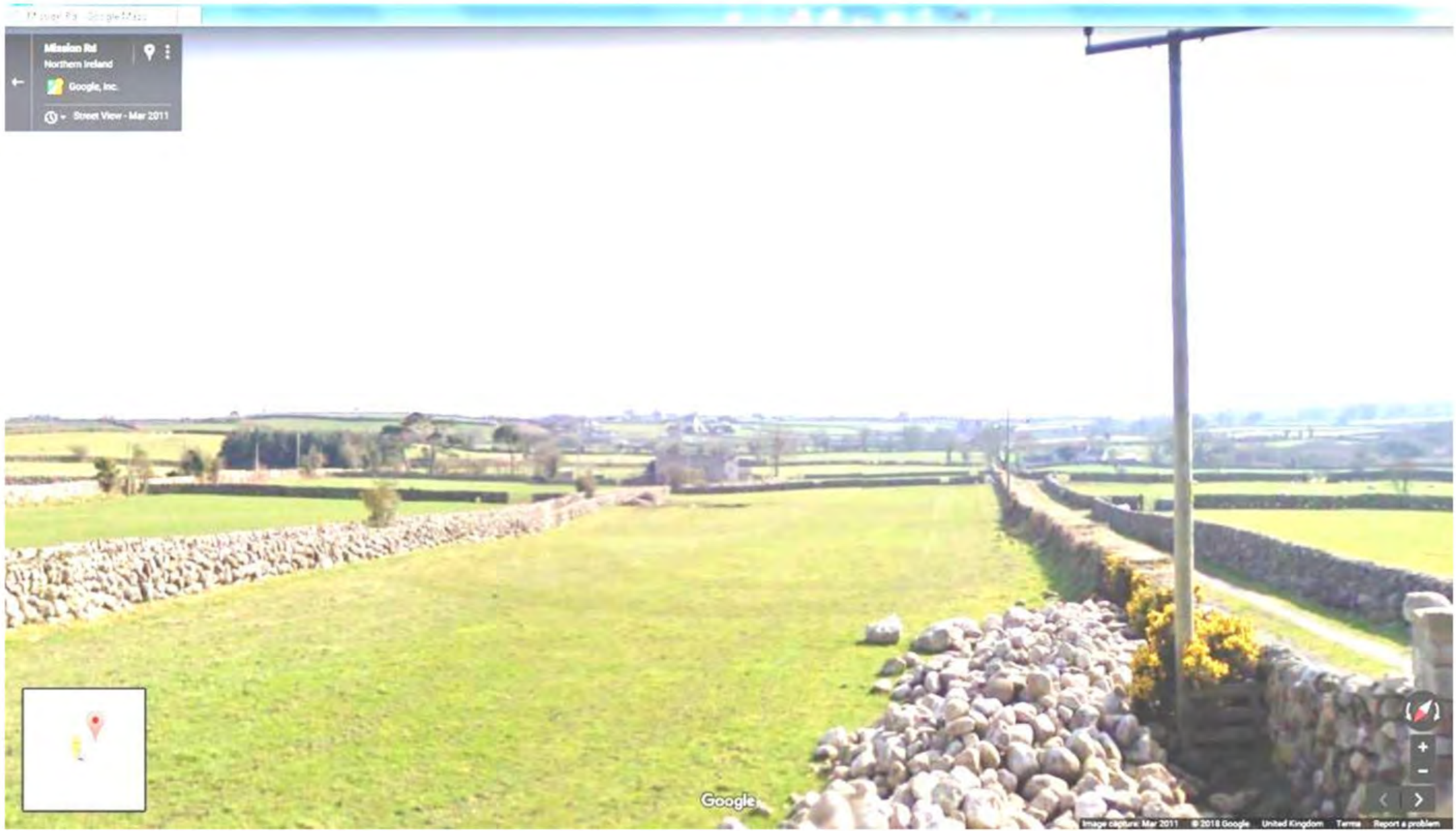
Proposal: Erection of dwelling and garage in compliance with conditions on approval P/2002/1210/O

I refer to your correspondence dated 10 February 2009 regarding the above planning application.

I can advise that generally speaking the construction of an access, provided it is in accordance with the approved plans, would be sufficient to indicate that development had begun. Unfortunately Planning Service does not currently have the resources to carry out inspections of works undertaken.

Yours sincerely

for Divisional Planning Manager



| | | | | |
|------------------------|---|--------------------|----------------------|---|
| ITEM NO | 23 | | | |
| APPLIC NO | LA07/2018/0314/F | Full | DATE VALID | 21/02/2018 |
| COUNCIL OPINION | APPROVAL | | | |
| APPLICANT | Newry, Mourne and Down District Council O'Hagan House Monaghan Row Newry BT35 8DJ | | AGENT | Crossmaglen Community Centre 41 Cardinal O'Faich Square Crossmaglen BT35 9HQ |
| LOCATION | Lands approx. 95m west of 1-6 Derrybeg Villas Newry BT35 6JN | | | |
| PROPOSAL | Public art work - full scale replica of the Bessbrook Tram | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | |
| | 0 | 0 | 0 | |
| | | | Addresses | Signatures |
| | | | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/0314/F

Date Received: 21.02.2018

Proposal: Public art work - full scale replica of the Bessbrook Tram

Location: Lands approx. 95m west of 1-6 Derrybeg Villas Newry BT35 6JN

The site is located within the city limits of Newry as defined in the Banbridge, Newry and Mourne Area Plan 2015.

The proposal is to be sited on the A1 roundabout facing the Camlough Road. The tram is to be sited below the existing fly over.

Site History:

n/a

Objections & Representations

No. of neighbours notified=0

No representations received= 0

Advertise expiry= 29.03.2018

Consultations

TransportNI- no objections

Consideration and Assessment:

**Planning Strategy for Rural Northern Ireland
DES 2- Townscape**

This policy requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials.

The proposed tram is a piece of public art that reflects the heritage of the area. The tram is a real life size with a height of 2.5 metres and length of 8.5 metres. Internally the tram will be fitted with laser cut silhouettes of people from that era. The proposal will be set back in the roundabout to ensure it does not cause an obstruction to the oncoming traffic. DFI roads have been consulted as part of the application and returned with no objections.

The proposal will make a positive contribution to the surrounding townscape.

Recommendation:

Approval

.....

| | | | | |
|------------------------|--|--------------------|----------------------|----------------------|
| ITEM NO | D1 | | | |
| APPLIC NO | P/2014/0427/O | Outline | DATE VALID | 15/05/2014 |
| COUNCIL OPINION | REFUSAL | | | |
| APPLICANT | Joseph McGivern Nadaeven Well Road Warrenpoint BT34 3RS | | AGENT | |
| LOCATION | To the rear and south of 2 Berkley Grove Warrenpoint | | | |
| PROPOSAL | Site for dwelling | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 2 | 0 | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 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 the visibility of the existing access at Berkeley Grove onto Well Road renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

2. The proposal is contrary to Policy QD 1 of the Department's Planning Policy Statement 7 (PPS 7): Quality Residential Environments, in that the applicant has failed to demonstrate that the proposal: (a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale; and (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.

3. The Proposal is Contrary to Policy LC 1 of the Departments Planning Policy Statement 7 Addendum: Safeguarding the Character of Established Residential Areas in that it has not been demonstrated that a) the proposed density is not significantly higher than that found in the established residential area; (b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area.

4. The proposal is contrary to Planning Policy Statement 6 Addendum Policy ATC 2 and Policy ATC WB 35 of the Newry and Mourne Area Plan 2015, in that it has not been demonstrated that the proposal maintains or enhances the overall character of the ATC zoning and respects the built form of the area.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: P/2014/0427/O

Date Received: 20.05.2014

Proposal: Site for dwelling

Location: To the rear and south of 2 Berkley Grove Warrenpoint. The application site is included in the Mourne Area of Outstanding Natural Beauty (AONB) and within an Area of Townscape Character (ATC) as defined by the Banbridge / Newry and Mourne area Plan 2015. The application site is within the settlement development limits of Warrenpoint and is approximately 10 kilometres South East of Newry city.

Site Characteristics & Area Characteristics:

The site to be developed is located to the rear and south of 2 Berkely Grove, Warrenpoint. The application is irregular in shape and is bordered to the south and west by post and wire fencing, mature hedgerows or definable boundaries to the north and east. Land within the application site rises from the south, the site is not clearly visible from the public road. To the north of the site is Berkely Grove, a small housing development accessed via the Well Road. Access into the application site is proposed through Berkely Grove and between No's. 2 and 4. The access is currently overgrown with trees and shrubs.

The application site is just outside the main town centre. The surrounding area is made up of several large single dwelling plots.

Site History:

| | | | |
|-------------|----------------------------------|---|--------------------|
| P/1977/0897 | BROSSLEY, WALL ROAD, WARRENPOINT | PROPOSED ADDITION TO DWELLING | PERMISSION GRANTED |
| P/1986/0126 | 7 SHANDON DRIVE, KILKEEL | RETENTION OF DORMER WINDOWS IN DWELLING | PERMISSION GRANTED |
| P/1989/0001 | SITE 2 BERKLEY GROVE WELL ROAD | Detached domestic garage | PERMISSION GRANTED |

| | | | |
|---------------|---|---|------------------------------|
| | WARRENPOINT | | |
| P/1987/1229 | SITE NO.1 NEW HOUSING DEVELOPMENT OFF WELL ROAD WARRENPOINT | Site for dwelling | <i>PERMISSION GRANTED</i> |
| P/1983/0216 | WELL ROAD, WARRENPOINT | PROPOSED SITE FOR HOUSING DEVELOPMENT | <i>PERMISSION GRANTED</i> |
| P/1988/0023 | WELL ROAD WARRENPOINT | Housing development(11 dwellings) | <i>PERMISSION GRANTED</i> |
| P/1987/1140 | ADJACENT TO ROSEMOUNT WELL ROAD WARRENPOINT | Road lay-out for Housing Development | <i>APPLICATION WITHDRAWN</i> |
| P/2005/2580/F | Nadaeven, Well Road, Warrenpoint | Extensions to dwelling | <i>PERMISSION GRANTED</i> |
| P/1980/1006 | NADARVEN, WELL ROAD, WARRENPOINT | EXTENSION TO DWELLING TO FORM SELF CONTAINED FLAT | <i>PERMISSION GRANTED</i> |
| P/1989/4071 | 'NADAEVEN' WELL ROAD WARRENPOINT | Alterations to dwelling | |
| P/1997/0202 | NADAVEEN WELL ROAD WARRENPOINT | Extension to dwelling and domestic Garage | <i>PERMISSION GRANTED</i> |
| P/2012/0219/F | Nadaeven, Well Road, Warrenpoint, Newry, BT34 3RS, | Erection of single storey side extension to dwelling | <i>PERMISSION GRANTED</i> |
| P/2008/0550/F | 'The Haven', 8a Well Road, Warrenpoint. | Demolition of existing conservatory and side glazed porch. Construction of new entrance porch and rear extension. Extension to kitchen, utility room and shower room. | <i>PERMISSION GRANTED</i> |
| P/2004/1406/F | Adjacent to The Haven, Well Road, Warrenpoint | Erection of dwelling, garage, and store room | <i>PERMISSION GRANTED</i> |
| P/2000/1463/F | The Haven, Well Road, Warrenpoint | Sun room/conservatory extension | <i>PERMISSION GRANTED</i> |
| P/1992/1277 | "THE HAVEN" | Erection of building | <i>PERMISSION</i> |

| | | | |
|---------------|---|--|---------------------------|
| | WELL ROAD WARRENPOINT | to enclose existing swimming pool | <i>GRANTED</i> |
| P/2005/1830/F | Adjacent to 'The Haven' Well Road, Warrenpoint | Erection of dwelling - change of house type. | <i>PERMISSION GRANTED</i> |
| P/2011/0924/F | 1 Broseley Lane - Formerly Well Road, Warrenpoint, | Extension and renovations to existing dwelling and erection of garage | <i>PERMISSION GRANTED</i> |
| P/2007/0900/F | Lands adjacent and east of Nos 17-19 and 27-30 Drumsesk Place and adjacent and south of Nos 2 and 4 Berkley Grove, Warrenpoint (on site of existing dwelling known as 'Broseley' ('Brosely') off Well Road) | Erection of 17.No residential units comprising 7 No. private dwellings (revised house types) and 2 apartment blocks, containing 5 No.apartments each with new access road leading onto Drumsesk Place. | <i>PERMISSION REFUSED</i> |
| P/2005/0631/O | Curtilage of Broseley, Well Road, Warrenpoint. | Site for 4 no. dwellings within the curtilage of existing dwelling "Broseley" with new access for "Broseley" and 4 no dwellings onto Drumsesk Place. | <i>PERMISSION GRANTED</i> |
| P/1980/0412 | 4 WELL ROAD, WARRENPOINT | PROPOSED ERECTION OF DWELLING | <i>PERMISSION GRANTED</i> |
| P/1975/0829 | THE HAVEN, 4 WELL ROAD, WARRENPOINT | PROPOSED USE OF LAND FOR ERECTION OF BUNGALOW | <i>PERMISSION REFUSED</i> |
| P/1977/0318 | WELL ROAD, WARRENPOINT | PROPOSED SITE OF TWO DWELLINGS | <i>PERMISSION REFUSED</i> |
| P/2002/0821/O | Curtilage of 'Broseley', Well Road, Warrenpoint - 125m NW of Well Road, Rostrevor Road Junction | Formation of new entrance onto Drumsesk Place, Warrenpoint and provision of 5 No new dwelling sites for detached dwellings within curtilage of existing | <i>PERMISSION GRANTED</i> |

| | | | |
|--|--|-----------|--|
| | | dwelling. | |
|--|--|-----------|--|

Planning Policies & Material Considerations:

The Strategic Planning Policy Statement for Northern Ireland

The Banbridge / Newry and Mourne Area Plan 2015

Planning Policy Statement 7 (PPS 7) - Quality Residential Environments

Planning Policy Statement 7 (Addendum) (PPS 7 Addendum)- Safeguarding the Character of Established Residential Areas

Planning Policy Statement 12 (PPS 12) Housing in Settlements

Planning Policy Statement 3 (PPS3) – Access, Movement and Parking

DCAN 15 – Vehicular Access Standards

Consultations:

There were three consultations issued for this proposal, see details below.

- Department For Infrastructure (DFI Roads) - This application should be refused on grounds of road safety. (09/06/2014). Following receipt of additional information a further consultation was issued to DFI Roads which they responded "taking all matters into account in relation to road safety it is the Department's opinion that this proposal will result in the intensification in use of Berkley Grove" and their refusal comments in the initial response were still appropriate. (25/03/2015)
- NI Water – Generic response (21/07/2014)
- Environmental Health- No objections in principle to this proposal provided as per submission the development is connected to public sewerage system. (13/06/2014)

Objections & Representations

There were seventeen neighbour notifications issued for this proposal. The application was advertised in the local press on 13th June 2014. There were two objections letters received which outlined concerns with access and accuracy of the amended P1 form and site location plan. These issues will be addressed in the consideration and assessment section below. One letter of support was received from the occupiers of Brosley.

Consideration and Assessment:

The amended P1 for submitted to the Planning 16th December 2014 indicates this is an application for Full Permission, it can be confirmed that that is an application for outline permission only.

A concept plan submitted in December 2014 indicates how the proposed development will sit within the application site. It will be positioned 13 metres west of the adjoining dwelling to the east (Nadaeven) and 19 metres south of the adjoining dwelling to the north (No. 2 Berkely grove) with a F.F.L of 50.7m and will be orientated south.

The application site and immediate surrounds to the east, west and south are included in an ATC within the Banbridge and Newry and Mourne Area Plan with key features outlined as "a suburban area of large and medium sized demi-detached and

detached houses of varied design set in well landscaped gardens and many with generous plots". PPS 6 Addendum Policy ATC 2 states that "The Department will only permit development proposals in an Area of Townscape Character where the development maintains or enhances its overall character and respects the built form of the area. The Department will also require that any trees, archaeological or other landscape features which contribute to the distinctive character of the area are protected and integrated in a suitable manner into the design and layout of the development. "

Designation as an ATC puts an onus on prospective developers to produce a high standard of design, which respects and is sympathetic to the particular qualities of the area in question. Notwithstanding the acceptability of proposals in terms of other planning issues, the Department will operate a presumption against development that would detract from or fail to maintain the character of the distinct townscape displayed within an ATC. Proposals for residential development are also subject to the provisions of Policy QD 1 of PPS 7 'Quality Residential Environments'. This includes specific reference to ATCs and advises that in such areas: "housing proposals will be required to maintain or enhance their distinctive character and appearance. In the primarily residential parts of these designated areas proposals involving intensification of site usage or site coverage will only be permitted in exceptional circumstances."

This site is located within the ATC WB35 within the Area Plan, and the proposal seeks to subdivide an existing plot to create a small separate residential site within the grounds of Brosely house. This would set a dangerous precedent within the ATC and open other large detached properties up for further redevelopment. The character of the immediate area within the ATC shows distinctly large plots, this proposal would adversely affect this established character and would result in higher density development within an area designated for its detached dwellings on large plots. The adjacent dwellings of Navaeven, Brosley, The Haven and Rosemount are all large dwellings set in large plots accessed from Well Road. This site is significantly smaller than these plots and would be out of keeping with the pattern of development and overall character of the established residential area as outlined by Policy ATC2 of PPS6 (Addendum) and is therefore contrary to the ATC WB 35 zoning of the Newry and Mourne Area Plan.

Policy QD1 of PPS7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create quality and sustainable residential development. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. In Areas of Townscape Character such as this site the housing proposals will be required to maintain or enhance their distinctive character and appearance. In the primarily residential parts

of these designated areas proposals involving intensification of site usage or site coverage will only be permitted in exceptional circumstances.

It is the opinion of the Planning Department that this site is out of keeping with surrounding development in that the adjacent land contains larger dwellings and plots. While it is acknowledged that the housing density within Berkley Grove is at a higher density than that existing within the ATC zoning, it must be recognised that Berkley Grove has the access road running through the development and does not have a back to back development that would be created here between this proposed site and No 2 Berkley Grove.

The access through the housing development of Berkley Grove is unacceptable as it would lead to an access road behind to the side and to the front of No 2 Berkley Grove which would have an adverse impact on the amenity of this property and its privacy. While the dwelling plot may be similar to those in Berkley Grove, it is to the rear of the housing development and is considered to be backland development, which is contrary to the character of the existing surrounding area. The Proposal is therefore contrary to Policy QD1 points a and h. As no exceptional circumstances have been forthcoming to warrant a relaxation of these policy grounds refusal is recommended.

Policy LC 1 of the Addendum to PPS 7 states *"In established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met: (a) the proposed density is not significantly higher than that found in the established residential area; (b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area"*

This proposal would significantly reduce the existing plot sizes within the Well Road ATC and those established within the surrounding area, together with introducing a form and scale of development which is not found within the surrounding area, given that the proposal represents a backland development and this proposal would represent a precedent for introducing a significantly higher density of residential development within the surrounding area. This would open up the remaining large garden sites for future development thus eroding the established character further. While it is acknowledge that Berkley Grove represents a higher density than that within the ATC along Well Road, the spacing between buildings along Berkley Grove is broke up with the presence of the Access road and the fact that none of the properties are back to back but inside have significant distances between the existing large detached properties and Berkley Grove. Therefore the proposal is contrary to both point a and b of LC 1.

AMP 2 states that *"Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where: a) such access will not prejudice road safety or significantly inconvenience the flow of traffic;"*

DFI Roads has recommended refusal on grounds of road safety due to the narrow nature of the existing entrance into Berkley Grove and the requirements for increased site splays onto Well Road, which involves third party lands not within the remit of this application site. Further information was submitted to the Planning Department for consideration in December 2014 which the agent considered highly material to the alleged inadequate visibility at the junction of Berkley Grove and the Well Road. Having re-consulted DFI Roads on this, their refusal reasons are remain unchanged. This proposal is therefore contrary to AMP 2 of PPS 3 in that the development would prejudice road safety due to the increase in intensification of traffic utilising this existing entrance.

Recommendation:

Refusal

| |
|--|
| <p>Case Officer Signature:</p> |
| <p>Date:</p> |
| <p>Appointed Officer Signature:</p> |
| <p>Date:</p> |

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 the visibility of the existing access at Berkley Grove onto Well Road renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

2. The proposal is contrary to Policy QD 1 of the Department's Planning Policy Statement 7 (PPS 7): Quality Residential Environments, in that the applicant has failed to demonstrate that the proposal: (a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale; and (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.

3. The Proposal is Contrary to Policy LC 1 of the Departments Planning Policy Statement 7 Addendum: Safeguarding the Character of Established Residential Areas in that it has not been demonstrated that a) the proposed density is not significantly higher than that found in the established residential area; (b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area.

4. The proposal is contrary to Planning Policy Statement 6 Addendum Policy ATC 2 and Policy ATC WB 35 of the Newry and Mourne Area Plan 2015, in that it has not been demonstrated that the proposal maintains or enhances the overall character of the ATC zoning and respects the built form of the area.

Quinn Design and Engineering Services

36 Corrags Road, Burren, Warrenpoint, Co. Down, BT34 3PY

Tel (028) 417 72377 • Mobile 07768854084

Email:- brendanfrancisquinn@yahoo.co.uk

Statement in support of planning application
P/2014/0427/O

Proposal: Site for dwelling.

Location: To the rear and south of 2 Berkley Grove
Warrenpoint

Applicant: Joseph Mc Givern

Background

This application seeks outline permission for a new dwelling immediately adjacent to and west of the applicant's home at Well Road, Warrenpoint. Access is proposed onto the adopted estate road at Berkley Grove. The Berkley Grove estate road accesses onto Well Road.

I accept that Roads Service staff (now TNI) can change their minds when dealing with policy issues. This has happened to my cases on a few occasions. Sometimes my clients have benefited and sometimes my clients have suffered.

However, TNI staff cannot change their minds when they are applying their own legislation because their legislation sets out very specifically how they must act when they are adopting a new estate road.

Consideration of the refusal reasons

Refusal Reason No 1

The first reason for refusal relates to the visibility at the junction of Berkley Grove and the Well Road.

In this case TNI has already adopted the roads and foot ways in Berkeley Grove. TNI now say that the visibility at the Well Road junction is unacceptable and

"not in accordance with the standards contained in the Department's Development Control Advice Note 15".

Transport NI is the statutory authority charged with responsibility for ensuring that road users' safety is not compromised by new development. It is therefore inconceivable that TNI would adopt and take into public ownership the Berkley Grove estate road if it joined the Well Road through a substandard junction.

When the Berkley Grove estate road was being constructed TNI staff visited it on numerous occasions and observed the works. Before it was adopted, 3 different TNI engineers, including a senior engineer inspected it and its junction with the Well Road.

This being the case, it can only be that TNI regarded the junction of Berkley Grove and the Well Road as safe and fit for purpose. If it was unsafe it could never have been adopted.

TNI is now raising concerns about the intensification of use of the Well Road junction however, it is difficult to understand how the existing access can serve the 11 dwellings in Berkley Grove but not the additional dwelling proposed through this application. This view is supported by normal traffic figures.

Using the widely accepted figure of 10 movements per dwelling per day, the 11 houses in Berkley Grove would generate 110 movements. The additional dwelling proposed would take the expected average to 120, an increase of 9%.

Paragraph 1.2 in Development Control Advice Note 15 advises that intensification is only considered to occur when a proposed development would increase the traffic flow using an access by 5% or more. Given this long established 'rule', it is difficult to reconcile how an increase of 5% is not considered as intensification of use, yet increase of 9% can lead to refusal reasons such as reason no 1.

Planning Application P/2007/0900/F

Application P/2007/0900/F proposed 10 apartments and 7 dwellings on the site of Brosely. The proposed dwelling will be located on part of the site considered under P/2007/0900/F. 16 of the 17 proposed units were to access the public road via Berkley Grove in the same manner as is now proposed.

Roads Service were consulted in relation to application P/2007/0900/F. They responded with **no objection** to the proposed access and immediately asked for the drawings required to determine the new estate roads as private streets.

Roads Service did not raise any concerns in relation to the junction between Berkley Grove and Well Road.

The Case Officer dealing with the planning application recommended approval. The Group Meeting, which took place on 18 December 2008, endorsed the Case Officer's recommendation.

The applicant was asked to provide some additional information and failed to do so. A refusal issued on 19 December 2011.

THE REFUSAL REASONS DO NO RELATE TO THE ACCESS VIA BERKLEY GROVE.

From this we know that between June 2007 and December 2011 Roads Service were happy to allow 16 additional houses/apartments to access Well Road via Berkley Grove. I would contend that they took this view because the junction was safe. Had it not been safe, the estate road and junction could not have been adopted.

On 9th June 2014 TNI advised when consulted about this application that the junction with Berkley Grove was sub standard and that visibility was

"not in accordance with the standards contained in the Department's Development Control Advice Note 15"

They current edition of DCAN 15 was published in 1999 and has remained unchanged in the interim. Therefore, the visibility requirements have remained un-changed between 1999 and present day.

The junction at Well Road and Berkley Grove hasn't changed since 2007.

Against this background TNI need to answer the following questions:

- 1. How can an access be capable of serving 18 houses & 10 apartments in 2007 and not be capable of serving 12 houses in 2014 when it hasn't been altered in the interim?**
- 2. If the junction between Berkley Grove and Well Road can safely serve 11 existing houses, why can't it serve another 1 house.**

PSNI Accident Report

TNI have indicated that visibility at the existing junction with Well Road is unsafe. I have asked the PSNI for details of any traffic accidents at this junction and their reply is attached as Annex A.

As you will see the PSNI have confirmed that between 1st April 1998 – 30 November 2017 they have no records of accidents. The report also confirms that no accidents have been reported within 50m of the junction.

To summarise, a junction which TNI would lead us to believe is currently dangerous has not caused a traffic accident which was reported to the PSNI within a 17 and a half year period.

I would contend that TNI have acted extremely inconsistently and that refusal reason no 1 is poorly founded.

Refusal Reason No 2

P/2007/0900/F proposed 10 apartments and 7 dwellings. It was recommended for approval after being considered against Policy QD 1 in PPS7.

It is therefore difficult to understand the Council's decision to use Policy QD 1 to reject the subject application which only proposes 1 unit.

In the layout now proposed the new dwelling sits back to back with no 2 Berkley Grove. In keeping with the area, all of the new site boundaries will be formed by hedging.

The mature trees and hedging between the application site and Nos 2 and 4 Berkley Grove ensure that the rear of the new dwelling is well screened.

Finally, the shrubs which will be removed to create the access road will be replanted between the access road and walls which form the boundaries to Nos 2 and 4 Berkley Grove.

This approach will help '*soften*' these walls.

We feel that the application as submitted reflects the surrounding context, character and topography of the site.

If this application were to be approved, the applicant is quite happy to take whatever additional steps are necessary to ensure the new dwelling respects the surrounding context and to ensure the new dwelling is in keeping with the character of the area.

The new dwelling will sit 19.5m from No 2 Berkley Grove, 30.5m from No 4 Berkley Grove, 13m from the applicant's home and 25m from Brosely.

Given the separation distances involved, the presence of mature vegetation, and the fact that the new access lane will run between 2 existing brick walls which are at least 1.6m tall, I would strongly contend that siting a new dwelling as shown will not lead to any adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

Refusal Reason No 3

The subject site extends to 1153 m²; with the access excluded the remaining plot area extends to 924 m².

The plot at No 1 Berkley Grove is 593m², No 2 is 621m²; No 4 is 923m² while No 6 is 712 m².

The new dwelling beside 'The Haven' (south east of the application site) is 1119 m². The former dwelling known as 'Rosemount', which backs onto 2 Berkley Grove has been converted to four apartments. It has a plot area of 1500m².

The proposal is clearly in keeping with the density in the adjoining area.

Refusal Reason No 4

Designation WB 35 Area of Townscape Character Well Road

An ATC is designated as identified on Map No. 3/06a –Warrenpoint/Burren.

Key features of the area, which will be taken into account when assessing development proposals, are as follows:

- Well Road / Rostrevor Road is a suburban area of large and medium sized semi-detached and detached houses of varied design set in well landscaped gardens and many with very generous plots;
- This suburban residential quality contrasts with the other elements of the town. The mature landscaping of the houses give the narrow road the ambience of a country lane. This rural character is endorsed by the native boundary hedging.

From the above you will see the BNMAP advises that the main features in the Well Road AOTC are the well landscaped plots, the large and medium sized houses of varied design and the boundary hedging.

The proposed plot is larger than many of the plots in the area and the proposed dwelling would be similar in size to many of the houses in the locality. In keeping with the area, all of the site boundaries would be formed by either existing or proposed hedging. In addition, the mature trees and hedging between the application site and numbers 2 and 4 Berkley Grove would ensure that the rear of the new dwelling would be well screened.

Against this background it is difficult to understand how the proposal is contrary to Policy ATC WB 35.

I attended a deferral meeting on 9th January 2015 in Newry Arts Centre to discuss this application. I met with a senior Planning Service officer who now holds a similar post within the Council's planning department.

After the meeting, the officer indicated that the main stumbling block with this application was that of access and that if the access matters could be resolved, the application could easily be approved.

I would suggest that this is still the case and that refusal reasons 2, 3 & 4 are poorly founded.

Conclusion

Respectfully, I would ask the committee to give determining weight to the planning history on the site which confirms that until a few years ago TNI were quite content to allow the junction where Berkley Grove joins Well Road to serve an additional 16 houses/apartments.

In stark contrast this application requires the existing access to serve 1 additional house.

I would like to thank the Council in advance for the opportunity to speak in support of the application.

Brendan Quinn
BSc Hon's
ICIOB

Not Protectively Marked

COLLISION HISTORY OF REPORTED INJURY ROAD TRAFFIC COLLISIONS

AT

WELL ROAD / BERKLEY GROVE JUNCTION, WARRENPOINT

ACCOUNTING PERIOD 1 APRIL 1998 – 30 NOVEMBER 2017

NIL RETURN

**PLEASE BE AWARE THAT THESE INCLUDE COLLISIONS AT OR WITHIN 50 METRES OF
THE ABOVE JUNCTION**

DUE TO ONGOING VALIDATION, THIS INFORMATION MAY BE SUBJECT TO CHANGE

Source: PSNI Statistics Branch, Lisnasharragh

Not Protectively Marked

- Item 28

Re: Request for speaking rights - P/2014/0427/0

Michael Carr to Colette.McAteer

Please see the issue I wish to discuss at meeting.

Michael

I wish to request speaking rights in my role as Crotlieve DEA Councillor, at the **Planning Committee** on Wed 11th April 2018 in support of the applicants and their planning application P/2014/0427/0.

Specifically I would like to challenge the No 1 reason given for refusal:

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 the visibility of the existing access at Berkeley Grove onto Well Road renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

When a previous application on the same site, Transportni had no objection.

| | | | | |
|------------------------|--|--------------------|----------------------|---|
| ITEM NO | 1 | | | |
| APPLIC NO | LA07/2015/0248/F | Full | DATE VALID | 07/05/2015 |
| COUNCIL OPINION | APPROVAL | | | |
| APPLICANT | Sean Fitzpatrick 163 Newcastle Road Kilkeel | | AGENT | Quinn Design and Engineering Services 36 Carrogs Road Burren Warrenpoint BT34 3PY |
| LOCATION | 261m North West of 36A Council Road Kilkeel | | | |
| PROPOSAL | Erect 225kw wind turbine with a 40m high monopole and a 3 blade 13.5m radius rotor. Erect equipment room to serve turbine. Form hardcore access track. | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | SUP Petitions |
| | 1 | 0 | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |
| | | | Addresses | Signatures |
| | | | 0 | 0 |



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2015/0248/F

Date Received: 7th May 2015

Proposal: Erect 225kw wind turbine with a 40m high monopole and a 3 blade 13.5m radius rotor. Erect equipment room to serve turbine. Form hardcore access track.

Location: 261m North West of 36A Council Road, Kilkeel.
The site is located ¼ mile NE of Kilkeel.

Re-Consideration

Background:

The application was previously recommended for refusal due to its visual and noise impact and lack of information. The Planning Committee deferred the application on 2nd February 2017 to allow a more detailed noise assessment to be undertaken. A Cumulative Noise Assessment was submitted on 5th January 2018 and Environmental Health is content with the findings subject to conditions. The agent subsequently submitted additional information to demonstrate that if the Committee was to approve a nearby application LA07/2017/0562/F for a dwelling, permitted noise levels would not be exceeded at that dwelling. This was confirmed by Environmental Health on 20th February 2018. The noise issue and lack of information has now been resolved. Although the Planning Department still has some concerns regarding the visual impact, it is not felt that a refusal on this basis could be sustained at appeal given the nearby approved turbine of the same size – see further consideration below.

Site Characteristics & Area Characteristics:

The site is located in the SE corner of a larger agricultural field. The field is relatively flat and fronts onto Council Road to the north. It is bounded by low Mourne Granite boulder walls with some sparse hedging to the eastern boundary and a more dense area of gorse beyond the site to the south. The turbine will be approximately 55m back from the road. There is an existing turbine on the holding 225m to the SW. The turbine will be visible over a wide area given the low-lying nature of the landscape

and the lack of vegetative screening including from Lisnavale, Newcastle Road, Council Road, Carrigenagh Road and Anthony's Road. However it will also be visible over much of the Mourne coastal plain from as far away as Head Road 4 miles to the north.



The site is located in a rural area just to the NE of Killeel. The site is outside settlement limits on the Banbridge, Newry and Mourne Area Plan 2015 but is within the Mournes and Slieve Croob Area of Outstanding Natural Beauty. The site sits on a relatively flat coastal plain between the Mourne Mountains and the Irish Sea. The main land uses in the surrounding area are agriculture and residential.

Site History:

There have been no previous planning applications on the site. The nearby turbine owned by the same applicant is on a 40m pole with a 13.5m radius rotor. It was approved under application P/2012/0745/F on 30th May 2013. It is located approximately 200m SW of the site now applied for and gives a good indication of the scale of the current proposal.

Planning Policies & Material Considerations:

- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge, Newry & Mourne Area Plan 2015
- PPS2 – Natural Heritage
- PPS3 – Access, Movement and Parking
- PPS18 – Renewable Energy
- PPS18 Best Practice Guidance
- Wind Energy Development in Northern Ireland's Landscapes

Consultations:

Arqiva – No objection

Belfast International Airport – No objections

BT – No objections

Civil Aviation Authority – Standard advice

Defence Infrastructure Organisation – No objections

Environmental Health – A simplified noise assessment was submitted with the application. However, given that this would be a second wind turbine in the immediate area, Environmental Health requested a Full ETSU Noise Assessment to consider the cumulative noise impact of the turbines on surrounding sensitive receptors. This was eventually provided on 5th January 2018 and it has now been demonstrated that there will be no unacceptable adverse impacts on sensitive receptors. Standard conditions have been provided.

National Air Traffic Services – No objections

NIEA – Standing Advice on groundwater. A Bat survey was requested. This was submitted on 16th October 2015 and identified no potential impacts on local bat populations. NIEA are now content subject to standard informatives.

NI Electricity – Standard safety advice

NI Water – No objections

Ofcom – One fixed link operated by BT was identified. BT was subsequently consulted and returned no objections.

PSNI – No objections

TransportNI – No objections

Objections & Representations:

The application was advertised in local papers on 27th May 2015. There were no notifiable neighbours under Article 8 (1)(b) of the Planning (General Development Procedure) Order (Northern Ireland) 2015. No objections or representations were received from members of the public. Local Councillor Henry Reilly has applied to speak in objection to the proposal at the Planning Committee meeting. The red line was amended to show access to the site on 31st March 2016, though as this only related to a change within the same field and did not affect the public road, the nature of the proposal or any third parties, it was not considered necessary to re-advertise the application.

Consideration and Assessment:

The main issues to be considered are the benefits of renewable energy generation, visual impacts on the landscape and Mourne's AONB, impacts on natural heritage and implications for residential amenity and communication networks.

The proposal exceeds the threshold of Category 3(J) of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015. The Council was required under Regulation 10 to make a determination as to whether the proposal was for EIA development. Following an extensive consultation process, it

was determined on 28th August 2015 that an Environmental Statement would not be required as the environmental effects were not likely to be significant.

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 outside settlement limits on the above Plan, and is unzoned. There are no specific policies in the Plan that are relevant to the determination of the application and it directs the decision-maker to the operational policies of the SPPS and the retained PPS18.

The SPPS (paragraph 6.224) operates a broadly similar approach to PPS18 for renewable energy schemes, though 'appropriate' rather than 'significant' weight is to be given to the environmental, economic and social benefits of renewable energy (paragraph 6.225). With that exception, and since the SPPS is generally less prescriptive, the retained policy of PPS18 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS. This proposal is assessed against the five main criteria of policy RE1 of PPS18 as follows:

- (a) There will be no adverse impacts on public safety. The turbine is at sufficient distance from public roads in the case of fall over. TransportNI has no objections under PPS3 to the use of the existing access point from Council Road and its extension to the site. The main issue for consideration here is noise from the turbine. The nearest dwelling is the applicant's brother's house 260m east of the site and a letter has been submitted to confirm that this occupier has a financial interest in the project. A further dwelling is proposed 222m to the north under application LA07/2017/0562/F. This is being recommended for refusal. A simplified noise assessment was submitted with the application. However, given that this would be a second wind turbine in the immediate area, Environmental Health requested a Full ETSU Noise Assessment to consider the cumulative noise impact of the turbines on surrounding sensitive receptors. A Cumulative Noise Assessment was submitted on 5th January 2018 after deferral of the application by the Planning Committee and Environmental Health is content with the findings subject to standard conditions. The agent subsequently submitted additional information to demonstrate that if the Committee was to approve application LA07/2017/0562/F for the dwelling to the north, permitted noise levels would not be exceeded at that dwelling. This was confirmed by Environmental Health on 20th February 2018.
- (b) There are no visual concerns with the ancillary equipment room or access track. The remainder of this assessment will focus on the turbine itself. The existing turbine to the SW gives a good indication of the visual impact the proposal would have in the local landscape. It is extremely prominent over a wide area of the Mourne coastal plain as the flat landscape and comparative lack of vegetative field boundaries means there is little or no natural screening. The NIEA document, *Wind Energy Development in Northern Ireland's Landscapes* provides guidance on the types of wind development that can be generally accommodated in each of Northern Ireland's landscape character areas. This site is at the southern edge of LCA 74 – Kingdom of Mourne. It has high sensitivity to wind

energy development. The document refers to the area's open landscape and its distinctive field pattern and states that this pattern is highly sensitive to physical and visual disruption particularly by development which is comparatively large and out of scale. The existing turbine appears as such a structure which disrupts the natural appearance and scale of the landscape. The application was previously recommended for refusal on the basis of the change in weight to be attributed to the environmental, economic and social benefits of renewable energy. The SPPS now states that appropriate rather than significant weight should be given to these considerations. The visual concerns were considered to outweigh the economic benefits of the scheme. Upon reflection, the Planning Department feels that it would be difficult to sustain a refusal at appeal if it was based only on the change of one word in the SPPS. Paragraph 1.3.18 of the Best Practice Guidance acknowledges that there are no landscapes into which turbines will not introduce a new and distinctive feature. Whilst turbines are by their nature highly visible this should not in itself preclude them as acceptable features in the landscape. Paragraph 1.3.24 recommends a cautious approach in relation to those landscapes which are of designated significant value, such as AONBs. It is a fact that there is a similar existing turbine approved next to the site. The erection of a second turbine would not undo this and it would not have as significant an effect on the visual amenity and landscape character of the area and the Mourne AONB as the first turbine did, simply because there is already a similar structure in the landscape. The previous approval nearby is a material consideration, as are the acknowledged renewable energy benefits of the scheme (providing power to approximately 145 houses) and while the Planning Department still has visual concerns about the proposal, it is felt these are not sufficient to warrant refusal in the context of this site.

- (c) Wind turbines can potentially impact on protected species including birds and bats. These species tend to use linear features such as hedgerows as foraging routes. The turbine base is 20 metres from the nearest linear feature, a field boundary to the south. At this distance a bat survey was required. This was submitted on 16th October 2015 and identified no potential impacts on local bat populations. NIEA are now content subject to standard informatives. There are no nearby built heritage features that would be adversely affected.
- (d) The turbine should not harm local natural resources such as air or water quality. NIEA Waste Management Unit assessed the proposal and provided standard advice on groundwater. The site is at sufficient distance from any watercourse or water supply, so further investigation as part of the planning process is not required.
- (e) The turbine is to be located within private farmland and it will not affect public access to the countryside.

The proposal has also been assessed against the specific requirements for wind energy development as follows:

- (i) The size, scale and siting of the proposed turbine will not have an unacceptable impact on visual amenity and landscape character as discussed above. Policy NH6 of PPS2 is also relevant in considering the visual impact of the turbine as the site is within the Mourne and Slieve Croob Area of Outstanding Natural Beauty. The AONB designation reflects the public amenity value of a wide area and its importance to the tourism industry. The planning system aims to preserve

the visual appeal of these areas and protect them from inappropriate development. In the context of this site which already has a similar turbine nearby and is over 4 miles from the high Mourne, it is not thought that it will unduly harm the special character of the area.

- (ii) The applicant has an existing turbine 200m SW of this site. It has a 40m tower and 27m rotor diameter. While a second turbine in close proximity will result in a cumulative impact, it would normally require three or more turbines in a locality to sustain such a reason at appeal.
- (iii) This is a relatively flat site in a lowland landscape, so there is no risk of landslide or bog burst.
- (iv) Various organisations were consulted to establish whether the proposal would cause unacceptable electromagnetic interference. There have been no objections from Arqiva, Belfast International Airport, British Telecom, Civil Aviation Authority, Defence Estates, National Air Traffic Services, NI Water, OFCOM or PSNI.
- (v) The development will not impact on road, rail or aviation safety following advice from the consultees listed above. A condition will be attached to ensure that an aviation warning light is installed at the highest point of the hub.
- (vi) The agent has now provided a full ETSU noise assessment based on the impact of the two turbines in proximity to sensitive receptors. Environmental Health is now satisfied that there will be no adverse noise impact. There is only one existing dwelling within the theoretical area that could be affected by shadow flicker from the turbine and this is the applicant's brother's house which has a financial interest in the project. Therefore a shadow flicker assessment was not requested. It is unlikely that ice throw or reflected light will be an issue at this location.
- (vii) A condition will be attached to ensure that any above-ground redundant plant will be removed and the site restored within 6 months of the operational use of the turbine for electricity generation ceasing.

The environmental benefits of this clean energy project are acknowledged, and along with planning history for another wind turbine in the area are considered to outweigh the visual concerns with the proposal. On balance, it is considered to meet the requirements of policy RE1 and paragraph 6.224 of the SPPS and policy NH6 of PPS2 and should be approved.

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. The level of noise emissions from the wind turbine hereby permitted (including the application of any tonal penalty when calculated in accordance with the procedures described on pages 104 - 109 of ETSU-R-97) shall not exceed values set out in Table 1 below. Noise limits for any dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in Table 1 shall be those of the physically closest location listed in the table unless otherwise agreed by the Council.

Table 1: Noise Limits

| Property | Wind Speed at 10m Height (m/s) | | | | | | | | | |
|--|--------------------------------|---|------|------|------|------|------|----|----|--|
| | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | |
| Noise Limits, dB L_{A90,10min} | | | | | | | | | | |
| Dwelling located at 332835,316335 | | | 35.2 | 36.2 | 37.3 | 38.0 | 39.4 | | | |
| Dwelling proposed under application reference LA07/2017/0562/F | | | 36.5 | 37.5 | 38.6 | 39.3 | 40.7 | | | |

If the noise from the turbine is found to be tonal in character then the above limits may not be achievable and the applicant may be in breach of any permission granted.

Reason: To control the noise levels from the development at noise sensitive locations.

3. Within 28 days of being notified by the planning office of a reasonable complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall, at his/her expense employ a consultant, approved by the Planning office, to assess the level of noise emissions from the wind farm at the complainant's property following the procedures described in Pages 102-109 of ETSU-R-97. The Planning Authority shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.

Reason: To control the noise levels from the development at noise sensitive locations.

4. The wind farm operator shall provide to the Planning Office the consultant's assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Planning Office unless otherwise extended in writing.

Reason: To control the noise levels from the development at noise sensitive locations.

5. The developer must notify UK DVOF & Powerlines at the Defence Geographic Centre with the following information prior to development commencing:

- a. Precise location of development.
- b. Date of commencement of construction.
- c. Date of completion of construction.
- d. The height above ground level of the tallest structure.
- e. The maximum extension height of any construction equipment.
- f. Details of aviation warning lighting fitted to the structure.

This information can be sent by e-mail to UK DVOF & Powerlines at icgdgc-aero@mod.uk or by post to:

D-UKDVOF & Power Lines
 Air Information Centre
 Defence Geographic Centre
 DGIA
 Elmwood Avenue
 Feltham
 Middlesex
 TW13 7AH

Reason: In the interests of aviation safety.

6. The developer shall install a Low/Medium (Low if its less than 45m above ground level or Medium if it is more than 45m above ground level) Intensity, Omnidirectional, Night Vision Compatible, Steady Red Obstacle light at the highest point of the hub. The light should be lit 24 hours a day, seven days a week

Reason: To warn low flying aircraft that there is an obstacle at this location.

7. The wind turbine hereby permitted shall be removed and the site restored to its former condition within 25 years of the date of this permission, or within 6 months of the cessation of electricity generation at the site, whichever is the sooner.

Reason: To allow the Council to maintain control over this temporary form of development and reconsider the proposal in light of the circumstances then prevailing.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

Item 29 – LA07/2015/0248/F - wind turbine Council road Kilkeel**Reasons for objection**

Does not comply with basic PPS18 guidelines - The site is in an AONB in a flat area where the topography offers no integration whatsoever.

Strict development controls have been applied on other planning applications in the same area -

Example application for sheep housing refused - Double standards should not be applied by council.

Noise - the noise reports are predatory and do not take into account the cumulative effect with the existing wind turbine in a satisfactory manner and fall short of ETSU-R-97 guidelines in a number of areas. The applicant has not provided an absolute that the noise levels will be acceptable at the closest receptors.

the applicant cannot demonstrate that turbine generated low frequency noise and infrasound will be acceptable to the closest receptors. No evidence of how changes in wind speed and direction will affect noise levels at the closest receptors.

DANGER - Ice throw will be a significant problem for the closest receptors, pedestrians and motorists on the nearby public roads and will represent an unacceptable level of danger that should lead to a refusal of this application.

The Ice throw potential worked out using an empirical equation indicates an unacceptable risk to the closest receptors, streets and objects in the area

$d = (D + H) \cdot 1.5$ d = maximum throwing distance in m D = rotor diameter in m H = hub height in m.

summary

This wind turbine proposal fails all the tests as applied by Planning Policy Statement 18

It is in a sensitive AONB location and will cause significant erosion in amenity for the nearby residential areas at Council Road and Newcastle Roads Kilkeel and would if approved subject local residents to the potential of death or injury through Ice throw.

The Application should be refused based on the grounds that it can not adhere to planning policy and acceptable practice.

Quinn Design and Engineering Services

36 Corrags Road, Burren, Warrenpoint, Co. Down, BT34 3PY

Tel (028) 417 72377 • Mobile 07768854084

Email:- brendanfrancisquinn@yahoo.co.uk

Statement in support of planning application
LA07/2015/0248/F

Proposal: Erect 225kw wind turbine with a 40m high monopole and a 3 blade 13.5m radius rotor.
Erect equipment room to serve turbine. Form hardcore access track.

Location: 261m North West of 36A Council Road
Kilkeel

Applicant: Sean Fitzpatrick

Background

The applicant has an existing wind turbine which is identical to the one now proposed. The existing turbine was approved through planning reference P/2012/0745/F and is located 216m south west of the proposed turbine.

The proposed turbine will have a 40m high monopole and a 3 blade 13.5m radius rotor. At its highest, the turbine will measure 53.25m from ground level.

This application was discussed last February by the Planning Committee. At the time the recommendation was for refusal with refusal reasons relating to noise, visual and cumulative impact.

Noise

The Council's Environmental Health Department insisted that a full noise assessment be carried out which included on site background noise monitoring. This was carried out last year by Dr Peter Hill.

Dr Hill's findings and his conclusion confirm that the noise from the proposed turbine when considered in conjunction with the noise generated by the existing turbine will be within the parameters of the legislation which deals with noise emissions from wind turbines.

The Council's Environmental Health Department has agreed with Dr Hill.

Visual and Cumulative Impact

Since the application was considered by the Planning Committee last February, the Planning Department have re-considered the refusal reasons relating to visual and cumulative impact and concluded that they were not sufficient to warrant refusal.

No Objections

The application was advertised in the local press on 27th May 2015.

Cllr Henry Reilly uploaded a post to his Facebook page on 19th May 2015 which sought to encourage objections to the application.

Cllr Reilly uploaded a second post regarding wind turbine applications in the Council Road area of Kilkeel on 20th February past.

Cllr Reilly was featured on the front page of the Rathfriland Outlook on 3rd September 2014 and 4th March 2015. On both dates he was voicing his opposition to the grant of planning permission for and subsequent erection of my client's existing wind turbine.

Despite the publicity raised by Cllr Reilly, no one has objected to this planning application.

I would therefore ask the Planning Department to approve planning permission.

I would like to thank the Council in advance for the opportunity to speak in support of the application.

Brendan Quinn
BSc Hon's
ICIOB

Sean Fitzpatrick
163 Newcastle Road
Kilkeel

30 March 2018

Democratic Services
Newry, Mourne and Down District Council
Monaghan Row
Newry

Dear Sir

Planning application for a wind turbine at Council Road, Kilkeel
Planning Reference:- LA07/2015/0248/F

I'm aware that Cllr Henry Reilly has registered to speak in opposition to my planning application.

I have once again studied the NI Local Government Code Of Conduct For Councillors.

Paragraph 3.3 of the Code Of Conduct requires Councillors to act in an objective way.

Paragraph 9.3 of the Code Of Conduct requires Councillors to act in a balanced, fair and impartial way.

The image overleaf was posted on Cllr Reilly's Facebook page on 19th May 2015, shortly after this planning application was submitted to the Council.



It is inherent in the wording used in his posting that Cllr Reilly is strongly suggesting that people should object to my planning application.

The emotive wording used (**150 ft high wind turbine & these massive machines at their back door**) is also prejudicial to the application in that it seeks to encourage objection.

Cllr Reilly has failed to act in a balanced objective way in relation to my planning application and his failure to act in accordance with the Code Of Conduct should exclude him from taking any part in the forthcoming planning committee meeting.

Furthermore, he should be excluded from taking any part in the Council's decision making process on this application.

I would be grateful if the Council would consider this issue as a matter of urgency, take whatever advice is required, and exclude Cllr Reilly from the upcoming Planning Committee meeting since he has blatantly acted in contravention of the Code Of Conduct for Councillors.

Cllr Reilly was featured on the front page of the Rathfriland Outlook on 3rd September 2014 and 4th March 2015. On both dates he was voicing his opposition to the grant of planning permission and subsequent erection of my existing wind turbine which was approved by Planning Service under reference P/2012/0745/F.

On 20th February past, Cllr Reilly posted on his Facebook page an email he had written to the Planning Department seeking clarification on planning applications for wind turbines in the Council Road area of Kilkeel.

Despite his 2 appearances on the front page of the Rathfriland Outlook, his Facebook post on 19th May 2015 and his Facebook on 20th February past, no one has objected to my current planning application.

Please feel free to contact me should you require further clarification on the above.

Yours Faithfully

Sean Fitzpatrick

| | | | | | |
|------------------------|--|--------------------|----------------------|-------------------|---|
| ITEM NO | 4 | | | DATE VALID | 29/11/2019 |
| APPLIC NO | LA07/2016/1573/F | Full | | | |
| COUNCIL OPINION | REFUSAL | | | | |
| APPLICANT | Ronald Sloan 10 Ballyamgeough Road Kilkeel | | | AGENT | Pat Quinn Planning Consultant 36 Carrogs Road Burren Warrenpoint BT34 3PY |
| LOCATION | 55m SE of No 29 Leitrim Road Kilkeel | | | | |
| PROPOSAL | Replacement dwelling and detached garage | | | | |
| REPRESENTATIONS | OBJ Letters | SUP Letters | OBJ Petitions | | SUP Petitions |
| | 0 | 0 | 0 | | 0 |
| | | | Addresses | Signatures | Addresses Signatures |
| | | | 0 | 0 | 0 0 |

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling and all external structural walls are not substantially intact and the subject dwelling was previously replaced.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted add to a ribbon of development and would therefore further erode the rural character of the countryside and Area of Outstanding Natural Beauty.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2016/1573/F

Date Received:

23/11/2016

Proposal:

Replacement dwelling and detached garage

Location:

55m SE of No 29 Leitrim Road, Kilkeel

Site Characteristics & Area Characteristics:

The site is located in a rural area approximately 2 miles north-west of Kilkeel, known as Leitrim Hill, which forms part of the Mourne Area of Outstanding Natural Beauty (AONB.) There are a number of single dwellings in the immediate locality ranging from single to two storey, including No.29 a substantial two storey dwelling set within a defined road side curtilage within the larger site boundary. The site comprises this road side curtilage and a laneway to the south, leading to an irregular field area some 65m east of the road side which is defined with hedgerow and dry stone wall boundaries.

Relevant Site History:

A proposal to replace the subject dwelling was originally approved through applications P/1996/0080/O and P/1998/0596/RM respectively (the development outcome of which is now No.29 Leitrim Road) however the respective demolition conditions were never complied with. Through the passage of time, a second replacement opportunity was approved prior to the implementation of PPS21, by virtue of application P/2009/0633/F, approved on 7th August 2009. Further to this, full permission was granted through application P/2009/1484/F for an amended access to that approved under P/2009/0633/F on 16th June 2010.

More recently, a Certificate of Lawfulness (LA07/2015/0166/LDE) was submitted seeking confirmation that the works undertaken on the site are lawful and constitutes a material start to planning approval P/2009/0663/F. LA07/2015/0166/LDE was refused on 5th October 2016, with the Council's decision tested and considered further at appeal. **Through this appeal (reference 2016/E0045) it was determined that the approval P/2009/0633/F has not lawfully commenced (appeal decision 29th November 2017.) Therefore the applicant does not have the benefit of valid planning approval on site.**

Planning Policies & Material Considerations:

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge / Newry and Mourne Area Plan 2015 (BNMAP)
- Relevant Planning Legislation – The Planning Act (NI) 2011 and The Planning (NI) Order 1991
- PPS 2 'Natural Heritage'
- PPS 3 'Access, Movement and Parking' / DCAN 15 'Vehicular Access Standards'
- PPS 6 'Planning, Archaeology and the Built Heritage'
- PPS 21 'Sustainable Development in the Countryside'
- 'Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside' and 'Dwellings in the Mourne's' Design Guidance
- Site History and Planning Appeals Commission Decision 2016/E0045

Consultations:

DfI Transport NI: No objections to the proposal (16/01/2017)

NI Water: No objections, standard informatives attached (22/12/2016)

Objections & Representations

- 2 Neighbouring properties (No's 27, 29 Leitrim Road) were notified on 22/12/2016 with statutory expiry date 05/01/2017;
- The application was advertised in 1 local newspaper on 14/12/2016 with the statutory publication period ending on 28/12/2017;
- 0 responses / objections have been received at the time of writing this report

Consideration and Assessment:

Para 3.8 of the SPPS instructs that proposed development which accords with the Plan should be approved and development which conflicts with an up-to-date plan should be refused, unless material considerations indicate otherwise. Section 45 of the Planning Act (Northern Ireland) 2011 also 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 subject site is classified as rural and also forms part of the designated Mourne AONB (AONB2) as identified by the BNMAP. In addition, there is a designated archaeological enclosure located within the site area (reference DOW055:015). DfC Historic Environment Division: Historic Monuments was consulted on the former application (reference P/2009/0633/F) in terms of PPS6 requirements, with a negative condition (condition 3) attached to the decision requiring archaeological surveillance of top soil stripping and site preparation for recording prior to site works or development taking place. In the event of a favourable determination, this condition will also be attached to this decision to ensure that archaeological remains which may exist within the application site are properly identified and recorded in line with PPS6 requirements.

As there are no specific policies in BNMAP relevant to the determination of this proposal, the retained operational rural policy of PPS21 will be given significant

weight in this assessment, together with the provisions of PPS2, PPS3, DCAN15, the relevant planning history, the respective design guidance and any comparable case law / planning appeals to the site specific circumstances.

Principle of Development

The principle of replacement will be considered and assessed under CTY 3 of PPS 21. As the subject dwelling to be replaced no longer exists and had been previously replaced the proposal fails to meet CTY 3 in that there is no structure that exhibits the characteristics of a dwelling present to be replaced and the dwelling had previously been replaced under P/1996/0080/O and P/1998/0596/RM. The PAC and the Council have already determined that the second approval approved under P/2009/0633/F was not commenced in time and therefore the principle of development for a replacement dwelling does not meet planning policy CTY 3. As the proposal does not meet CTY 3 it automatically stands that it would fail to meet CTY 1.

Lawfulness / Commencement of Development

The proper vehicle to ascertain whether a material start has been made in development is through an application for a Certificate of Lawfulness for existing Use or Development (CLUD) as per Section 169 of the Planning Act (NI) 2011. In line with this approach, a Certificate of Lawfulness (reference LA07/2015/0166/LDE) was submitted, seeking confirmation that works undertaken on the site are lawful against approvals P/2009/0663/F and P/2009/1484/F and constitute a material start to approval P/2009/0663/F, thus securing the principle of replacement. The Council determined that only partial compliance with the pre-commencement conditions has been implemented and that the existing works do not constitute commencement, with LA07/2015/0166/LDE subsequently refused. This refusal was considered further by the Planning Appeals Commission (appeal reference 2016/E0045) who concluded that a material start had not been made in the construction of P/2009/0663/F.

Regarding the query of lawful commencement, the commissioner notes that the purpose of the Planning (Northern Ireland) Order 1991 article 34 is to "*bring an end permissions not begun within a specified period in order to prevent an accumulation of unimplemented planning permissions and allow proposals to be reviewed periodically in light of changing circumstances,*" a matter which is replicated in Section 61 of the Planning Act (NI) 2011. Article 36 of the Planning (NI) Order 1991 explains the interpretation of Article 34 - in respect of the construction of a building, sub section (a) specifies that development begins "*where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building.*" In this scenario, approval P/2009/0633/F relates to the 'erection of a replacement dwelling and detached garage with associated works.' **The commissioner was not persuaded that there have been any works carried out in relation to the erection of the approved replacement dwelling or garage,**

concluding that permission P/2009/0633/F has not lawfully commenced and that a fresh planning application would be required to assess future development of a dwelling and detached garage on this site.

PPS21 'Sustainable Development in the Countryside'

The current application seeks full planning permission to implement the replacement dwelling approved under P/2009/0663/F. The respective recent appeal 2016/E0045 decision as noted, has determined there is no evidence to demonstrate lawful commencement of development on this site against P/2009/0663/F. Policy CTY1 of PPS21 lists the possibilities where a dwelling in the countryside may be appropriate. This includes a replacement dwelling in accordance with Policy CTY3. The initial test of CTY3 requires the building to be replaced to display the essential characteristics of a dwelling, with all external structural walls 'substantially intact' as a minimum. The subject building was previously demolished to meet pre-commencement conditions attached to P/2009/0663/F. **Fundamentally Policy CTY3 is clear in that eligibility does not extend to buildings where planning permission has previously been granted for a replacement dwelling, or where the building is immune from enforcement action as a result of non-compliance with a condition to demolish. Given the fact that the subject building has already been replaced through P/1996/0080/O and P/1998/0596/RM, there is no provision under the prevailing policy of CTY3 and the agent's reference to application LA07/2016/0716/F is of little relevance in this regard.** Recent appeal decision 2017/A0100 is comparable in interpreting the prevailing policy in that the specific circumstances on this site neither individually nor cumulatively outweigh the failure of the proposal to meet the required policy tests.

For the purposes of completion and to afford a full assessment however, the proposal is considered against the remaining relevant policies (CTY13, CTY14 and CTY16) of PPS21 below in addition to PPS2 and PPS3 requirements:

Dwelling Design

In terms of design, the dwelling comprises a chalet bungalow of regular plan incorporating elements of traditional design including; simple storm porch, pitched roof, chimneys expressed off the ridge line, vertically emphasised openings. Selected dwelling finishes include; dark coloured roof slates, smooth rendered walls, black profile rainwater goods, hardwood doors, with garage finishes to match. In terms of scale (externally,) the dwelling measures 27m in length x 12m with a ridge height of 6.5m, incorporating a four bedroom dwelling over two levels. The overall scheme in design terms is acceptable against the merits of CTY13, CTY14 of PPS21, the provisions of NH6 of PPS2 and the respective design guidance listed.

Access / Ancillary Works

The proposed dwelling seeks to utilise the existing access lane, approved under P/2009/1484/F. Transport NI has no objections to this against PPS3 / DCAN15

requirements. Proposed site layout shows a 'paddock' area within the dwelling curtilage (north and north-east of the dwelling) which is not referenced in the description. In the event of an approval, further detailing of this proposed paddock area would be required to ensure the proposals are acceptable against CTY13 and CTY14 considerations in terms of integration and rural character.

Site, Landscaping and Integration

The dwelling proposed is sited south east of No.29 Leitrim Road with the principal elevation facing south west and detached garage north west of the dwelling.

New landscaping is proposed along the NW, NE and SE boundaries of the dwelling curtilage, with the addition of dry stone wall along the SE and laneway access. The proposed landscaping is sufficient against CTY13 and CTY14 considerations.

Service Provision

The proposal seeks to connect to mains water supply. NI Water has no objections to the proposal, with standard informatives attached. In terms of sewage, a septic tank is shown to be sited north of the proposed garage to dispose of foul sewage, with associated lawn soakaway to deal with surface water. The proposed drainage measures are subject to the applicant obtaining the relevant consents from NIEA and in the event of an approval, the septic tank positioning may require to be altered to achieve the advisory 15m separation distance from the dwelling and ensure they can be provided without adversely impacting on the environment in line with CTY16 requirements.

Residential Amenity

The proposed dwelling do not present any concerns in respect of the amenity of No's 27 and 29 Leitrim Road. There have been no objections or representations made in this regard and no additional relevant surrounding approvals to consider.

Recommendation: Refusal

Summary recommendation:

- **The subject dwelling has been demolished and does not exhibit the characteristics of a dwelling with four walls structurally intact;**
- **Recent Appeal decision 2016/E0045 determined that this previous approval for replacement (P/2009/1663/F) did not lawfully commence and a fresh planning application is required to determine whether erection of dwelling / garage is acceptable on this site;**
- Prevailing policy is PPS21 and specifically Policies CTY1 and CTY3;
- **As the subject dwelling has previously been replaced (through historical applications P/1996/0080/O and P/1998/0596/RM) it not eligible for secondary replacement against Policy CTY3.**
- No alternative provision under CTY1 to erect a dwelling and garage on this site.

Reasons for refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling and all external structural walls are not substantially intact and the subject dwelling was previously replaced.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

Quinn Design and Engineering Services

36 Corrags Road, Burren, Warrenpoint, Co. Down, BT34 3PY

Tel (028) 417 72377 • Mobile 07768854084

Email:- brendanfrancisquinn@yahoo.co.uk

Statement in support of planning application
LA07/2016/1573/F

Proposal: Replacement dwelling and detached garage.

Location: 55m SE of No 29 Leitrim Road
Kilkeel

Applicant: Ronald Sloan



Background

Application P/2009/0633/F

A replacement dwelling was approved on the subject site on 7 August 2009 under ref P/2009/0633/F. A photo of the old dwelling is shown on the cover page.

Condition 1 on the consent required the development to commence before the expiration of 5 years from the date of the permission ie before 7 August 2014.

Condition 2 required the removal of the dwelling being replaced before the clearing of topsoil and the construction of the new dwelling commenced.

Before the permission expired the dwelling being replaced was removed as required by condition 2 of the consent. Proof of this is provided by the Ordnance Survey NI aerial photographs taken on 5 October 2008 and 5 June 2013. These photographs are submitted now as Annexes A & B.

Condition 3 required arrangements for archaeological surveillance of top soil stripping to be agreed before site works took place. This has yet to happen; however, since the top soil has not yet been stripped from the area where the new dwelling is to be sited, the archaeological surveillance can still take place.

The area from which the top soil has not yet been stripped is shown shaded grey on the 1 to 2500 location map in Annex C.

Condition 3 seeks to identify and record any archaeological remains uncovered during top soil stripping. Since removing the dwelling to be replaced only involved work on previously developed ground it did not involve top soil stripping.

Application P/2009/1484/F

The access lane which was to serve the dwelling approved under P/2009/0633/F ran through the curtilage of the adjacent and occupied dwelling. Following the approval of the P/2009/0633/F application, the applicant sought permission for a new access road which would run directly from Leitrim Road to the approved dwelling, thereby creating a totally self-contained site. Permission for the new access road was granted under reference P/2009/1484/F on 16 June 2010.

Condition 2 on approval P/2009/1484/F required the vehicular access, including visibility splays and any forward sight distance to be provided in accordance with the approved plans prior to the commencement of any other work. There were no other pre-conditions. The work required by Condition 2 was carried out during the life span of the first application (proof of this is provided by the OSNI aerial photograph in Annex B taken on 5 June 2013 which was referred to above).

While the access road adjoined the P/2009/0633/F site, no condition requiring archaeological surveillance was imposed on the access consent.

To summarise, before any approvals expired, the applicant demolished the old dwelling and removed all resultant rubble from site and constructed the access and access lane which would serve the new dwelling.

Upon completion of the demolition work and constructing the access, the applicant ceased work as he was convinced/satisfied that he had implemented his approvals.

The applicant submitted an application for a certificate of lawfulness to confirm that the works undertaken were sufficient to implement the approval. This application was refused and a subsequent appeal was dismissed.

The applicant does not agree with the PAC determination, however, instead of challenging the appeal decision he has decided to use this application to restore the previous permission.

This application seeks to replace the former dwelling with a new dwelling which is identical to that approved under P/2009/0633/F.

The new dwelling will be sited exactly as it was approved under P/2009/0633/F.

The archaeological monitoring that was required under P/2009/0633/F can still take place.

The Planning Department's Consideration

The planning department have considered this application and have taken the view that the demolition of the old dwelling was not sufficient to implement the approval granted under P/2009/0633/F.

They have then decided that as the old dwelling has been demolished, there is no dwelling to replace.

Was there any guidance or advice in relation to commencement of development available in January 2009?

DPPS14 was published in March 2006. Soon after, land owners with planning permission on rural sites became acutely aware that their approvals would need to be implemented as a great percentage of rural approvals would not/could not be renewed under dPPS14.

As such, countless land owners began to "*do a wee bit*" to preserve their approvals. I myself contacted Planning Service on several occasions in an attempt to obtain advice on what type of work was required on site to implement rural approvals. In all cases the standard reply from Planning Service was to give no specific advice other than to say something such as

"the applicant should satisfy his or herself that he or she has correctly implement the approval".

After they became inundated with requests for advice on commencement of development from applicants, agents, and elected representatives, Planning Service published a document on their web site which was entitled

"Guidance on Renewing Planning Permission and Starting Development".

Specifically in relation to commencement of development, the document advised

"the following are useful examples of when Planning Service would accept that development has commenced in accordance with the approval"

The first bullet point advises

"Where an applicant has complied with conditions relating to works to be carried out before the commencement of other work".

To summarise, the first document that Planning Service published in relation to commencement of development advised that compliance with a pre-condition would commence or implement an approval.

A short time later the guidance was revised with the inclusion of the infamous “*and*”. The word “*and*” required a developer/land owner to comply with pre-conditions “*and*” carry out some

“work of construction in the course of the erection of a building, such as the digging of foundations and preferably pouring of concrete, driving of piles or other substantive works”.

Very notably, the first piece of advice was published by Planning Service on 12th June 2009, just before my client received his first permission.

To re-cap, Planning Service used its web site to advise land owners that simply complying with a pre-condition was sufficient to implement a planning permission. Mr Sloan did this and is now being told he didn't do enough.

Has the Committee decided similar cases?

The Council's Planning Department has taken a very draconian view on what is required to implement a planning permission. As such, the planning department's very strict stance on this topic has lead to countless applications being recommended for refusal and being subsequently decided by the Planning Committee.

The Planning Committee has deliberated and subsequently approved dozens of application where very little work has been done on site to implement a planning permission.

Application LA07/2016/1069/F

The committee approved one of my applications in February beside the Mountain House pub in Belleeks.

The applicant had provided the sight splays, stripped soil from the site and sited a temporary gate in the wrong position. The work was done and photographed before the approval expired. Furthermore, this work was done without any available advice from Planning Service.

My client applied in August 2016 to vary an occupancy condition. Significantly, the planning department accepted that the mere stripping soil was work in connection with the construction of a house but as the gate was

in the wrong place, the department took the view that permission had expired.

The committee took the view that the work was done for no other reason than to commence the construction of a new dwelling and approved planning permission.

In a similar manner, the applicant for this application, Mr Sloan, demolished a dwelling to comply with a condition on his planning permission. He then constructed a new access to serve the dwelling which was approved under a separate reference number.

This case is similar to the countless cases already approved by the Committee in that Mr Sloan complied with a pre-condition whilst ensuring he did not offend any other pre-conditions.

Application LA07/2016/0716/F

Application LA07/2016/0716/F related to a replacement dwelling on the A2 close to its junction with Wrack Road between Kilkeel and Ballymartin.

A former land owner obtained outline permission to replace an old dwelling on the site in 1987. By the time Reserved Matters had been approved in February 1990, the old dwelling had been demolished.

The site changed hands at least once since. Several subsequent permissions for a replacement dwelling on the site were granted and allowed to expire.

Application LA07/2016/0716/F was submitted to the Council by the current owner and sought full planning permission to erect a replacement dwelling with direct access onto the A2 which is a protected route. Planning history was mentioned in the consideration by the case officer but given no weight as the old dwelling had been demolished. The case was handled in a very similar manner to that of the subject application.

The Planning Department simply assessed the application as a new dwelling in the countryside and recommended refusal.

The Council's Planning Committee deliberated and approved the application.

Whilst the minutes of the committee meeting don't give any reason as to why the application was approved, the only assumption one can make for a

new dwelling being approved in a green field in the AONB with direct access onto a protected route is that the committee gave determining weight to the planning history on the site which dates back 30 years.

Conclusion

All systems of control must be based on administrative fairness which requires all applicants to be treated equally. This fundamental principle requires weight to be given to decisions which set a precedent when considering any application.

I would ask the Committee to give determining weight to the fact that until recently the site was occupied by a dwelling which was replaceable and that Mr Sloan in demolishing the dwelling had satisfied himself that he had complied with a planning condition.

Mr Sloan's actions were completely in keeping with the advice provided by Planning Service on its website.

Mr Sloan didn't demolish the old house for any reason other than to implement his planning approval.

The construction of the access and lane which followed is proof that he fully intended to construct a new dwelling.

I would like to thank the Council in advance for the opportunity to speak in support of the application.

Brendan Quinn
BSc Hon's
ICIOB

Annex A



OLD HOUSE

Land & Property Services

CERTIFIED OSNI MATERIAL

Film: ORCHD V2

Frame: 278-16

Flown: 5TH OCT. 2008

Authenticated: C. Mills

Crown Copyright © 2014



ORDNANCE SURVEY OF NORTHERN IRELAND

PHOTC

Amesc B



House Demolished

Access Road Constructed

Land & Property Services

CERTIFIED OSNI MATERIAL

Film: ORTHO V4

Frame: 273-16

Flown: 5th JUNE 2013

Authenticated: C. Allen

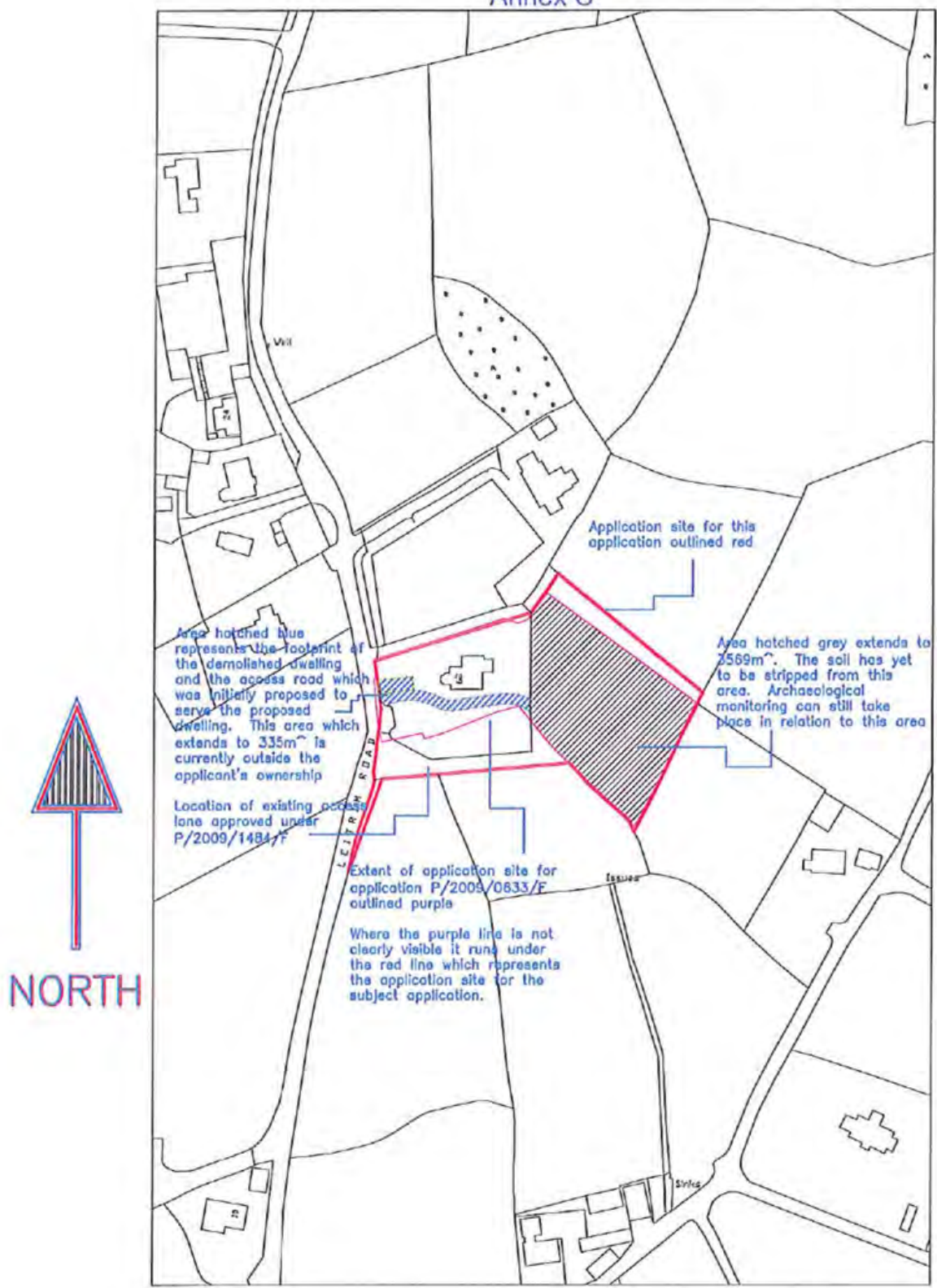
Copyright © 2014



ORDNANCE SURV OF NORTHERN IRELA

PHOTO

Annex C



Site Location Map
 Scale:- 1:2500
 Application site outlined red
 Location:- Leirim Road, Kilkeel
 OS Ref:- 278/16/NW

Newry, Mourne & Down District Council – March 2018

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1. Live Applications

| MONTH 2017/18 | NEW APPLICATIONS | LIVE APPLICATIONS | LIVE APPLICATIONS OVER 12 MONTHS |
|---------------|------------------|-------------------|----------------------------------|
| April | 129 | 1,075 | 293 |
| May | 149 | 1,058 | 281 |
| June | 149 | 976 | 263 |
| July | 135 | 957 | 250 |
| August | 166 | 959 | 249 |
| September | 140 | 910 | 243 |
| October | 157 | 935 | 230 |
| November | 163 | 912 | 230 |
| December | 83 | 869 | 230 |
| January | 158 | 917 | 228 |
| February | 135 | 921 | 212 |
| March | 161 | 923 | 225 |

Newry, Mourne & Down District Council – March 2018

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2. Live Applications by length of time in system

| Month 2017/18 | Under 6 months | Between 6 and 12 months | Between 12 and 18 months | Between 18 and 24 months | Over 24 months | Total |
|---------------|----------------|-------------------------|--------------------------|--------------------------|----------------|-------|
| April | 590 | 192 | 77 | 72 | 144 | 1,075 |
| May | 585 | 192 | 76 | 65 | 140 | 1,058 |
| June | 550 | 163 | 78 | 55 | 130 | 976 |
| July | 535 | 172 | 73 | 45 | 132 | 957 |
| August | 540 | 170 | 72 | 40 | 137 | 959 |
| September | 488 | 179 | 71 | 35 | 137 | 910 |
| October | 534 | 171 | 63 | 27 | 140 | 935 |
| November | 507 | 175 | 60 | 33 | 137 | 912 |
| December | 461 | 178 | 62 | 38 | 130 | 869 |
| January | 510 | 179 | 69 | 37 | 122 | 917 |
| February | 524 | 185 | 63 | 38 | 111 | 921 |
| March | 525 | 173 | 79 | 36 | 110 | 923 |

Newry, Mourne & Down District Council – March 2018

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3. Live applications per Case Officer

| Month 2017/18 | Average number of Applications per Case Officer |
|---------------|---|
| April | 67 |
| May | 62 |
| June | 58 |
| July | 50 |
| August | 50 |
| September | 57 |
| October | 58 |
| November | 57 |
| December | 55 |
| January | 50 |
| February | 54 |
| March | 54 |

Newry, Mourne & Down District Council – March 2018

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4. Decisions issued per month

| Month 2017/18 | Number of Decisions Issued | Number of Decisions Issued under delegated authority |
|---------------|----------------------------|--|
| April | 123 | 104 |
| May | 174 | 148 |
| June | 214 | 170 |
| July | 149 | 124 |
| August | 140 | 122 |
| September | 174 | 154 |
| October | 162 | 146 |
| November | 178 | 160 |
| December | 118 | 103 |
| January | 96 | 87 |
| February | 136 | 116 |
| March | 150 | 140 |

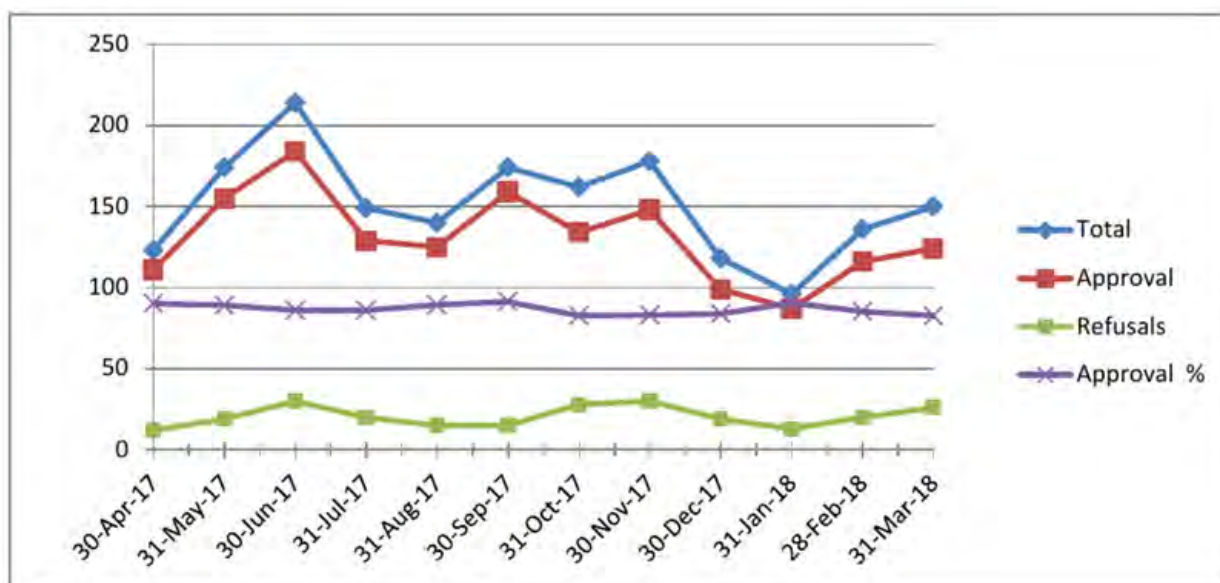
Newry, Mourne & Down District Council – March 2018

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5. Decisions Issued YTD

| Month 2017/18 | Number of Decisions Issued (cumulative) | Breakdown of Decisions | |
|---------------|---|------------------------|----------|
| | | Approvals | Refusals |
| April | 123 | Approvals (111) | 90% |
| | | Refusals (12) | 10% |
| May | 297 | Approvals (266) | 90% |
| | | Refusals (31) | 10% |
| June | 511 | Approvals (450) | 88% |
| | | Refusals (61) | 12% |
| July | 660 | Approvals (579) | 88% |
| | | Refusals (81) | 12% |
| August | 800 | Approvals (704) | 88% |
| | | Refusals (96) | 12% |
| September | 974 | Approvals (863) | 89% |
| | | Refusals (111) | 11% |
| October | 1,136 | Approvals (997) | 88% |
| | | Refusals (139) | 12% |
| November | 1,314 | Approvals (1,145) | 87% |
| | | Refusals (169) | 13% |
| December | 1,432 | Approvals (1,244) | 87% |
| | | Refusals (188) | 13% |
| January | 1,528 | Approvals (1,331) | 87% |
| | | Refusals (197) | 13% |
| February | 1,664 | Approvals (1,447) | 87% |
| | | Refusals (217) | 13% |
| March | 1,814 | Approvals (1,571) | 87% |
| | | Refusals (243) | 13% |

Newry, Mourne & Down District Council – March 2018



6. Enforcement Live cases

| Month 2017/18 | <=1yr | 1-2 yrs | 2-3 yrs | 3-4 yrs | 4-5 yrs | 5+yrs | Total |
|---------------|-------|---------|---------|---------|---------|-------|-------|
| April | 292 | 126 | 95 | 87 | 55 | 83 | 738 |
| May | 286 | 137 | 89 | 91 | 53 | 85 | 741 |
| June | 295 | 138 | 91 | 93 | 53 | 88 | 758 |
| July | 311 | 142 | 89 | 88 | 61 | 88 | 779 |
| August | 321 | 139 | 93 | 80 | 70 | 88 | 791 |
| September | 326 | 146 | 89 | 80 | 74 | 89 | 804 |
| October | 290 | 167 | 87 | 84 | 75 | 91 | 794 |
| November | 277 | 181 | 91 | 76 | 77 | 99 | 801 |
| December | 281 | 192 | 87 | 80 | 79 | 105 | 824 |
| January | 273 | 192 | 96 | 76 | 82 | 111 | 830 |
| February | 279 | 199 | 93 | 77 | 85 | 112 | 845 |
| March | 274 | 209 | 97 | 77 | 80 | 122 | 859 |

Newry, Mourne & Down District Council – March 2018

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7. Planning Committees 2017/2018

| Month | Number of Applications presented to Committee | Number of Applications Determined by Committee | Number of Applications Withdrawn/ Deferred for future meeting |
|----------------|---|--|---|
| 26 April | 26 | 19 | 7 |
| 24 May | 39 | 28 | 11 |
| 21 June | 34 | 18 | 16 |
| 19 July | 32 | 20 | 12 |
| 16 & 23 August | 36 | 19 | 17 |
| 13 September | 16 | 10 | 6 |
| 11 October | 22 | 13 | 9 |
| 8 November | 38 | 23 | 15 |
| 6 December | 28 | 15 | 13 |
| 10 January | 17 | 8 | 9 |
| 7 February | 23 | 16 | 7 |
| 7 March | 14 | 7 | 7 |
| Totals | 325 | 196 | 129 |

8. Appeals

Planning Appeal Commission Decisions issued during March 2018

| Area | Number of current appeals | Number of decisions issued | Number of decisions Allowed | Number of decisions Dismissed | Other decisions |
|----------------|---------------------------|----------------------------|-----------------------------|-------------------------------|-----------------|
| Newry & Mourne | 19 | 7 | 0 | 6 | 1 Withdrawn |
| Down | 7 | 1 | 0 | 1 | 0 |
| TOTAL | 26 | 8 | 0 | 7 | 1 |

Statutory targets monthly update - up to February 2018 (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 received | Number decided/withdrawn ¹ | Average processing time ² | % of cases processed within 30 weeks | Number received | Number decided/withdrawn ¹ | Average processing time ² | % of cases processed within 15 weeks | Number opened | Number brought to conclusion ³ | "70%" conclusion time ³ | % of cases concluded within 39 weeks |
| April | 0 | 1 | 91.8 | 0.0% | 127 | 113 | 19.0 | 38.9% | 35 | 20 | 64.2 | 60.0% |
| May | 1 | 2 | 109.7 | 0.0% | 150 | 157 | 17.4 | 45.9% | 32 | 46 | 60.5 | 56.5% |
| June | 2 | 2 | 72.4 | 0.0% | 125 | 205 | 18.4 | 42.9% | 32 | 21 | 64.5 | 52.4% |
| July | 1 | 1 | 127.2 | 0.0% | 133 | 141 | 18.8 | 41.8% | 32 | 19 | 111.8 | 52.6% |
| August | 1 | 1 | 247.6 | 0.0% | 145 | 134 | 16.3 | 42.5% | 29 | 28 | 61.6 | 42.9% |
| September | 1 | - | 0.0 | 0.0% | 132 | 153 | 18.2 | 41.2% | 46 | 25 | 57.4 | 48.0% |
| October | 0 | 2 | 276.3 | 0.0% | 136 | 152 | 17.4 | 44.1% | 29 | 41 | 31.6 | 85.4% |
| November | 0 | 1 | 185.2 | 0.0% | 130 | 167 | 14.0 | 54.5% | 24 | 9 | 50.4 | 66.7% |
| December | 1 | 2 | 271.0 | 0.0% | 123 | 104 | 16.2 | 39.4% | 19 | 5 | 41.7 | 80.0% |
| January | 0 | - | 0.0 | 0.0% | 126 | 94 | 19.1 | 44.7% | 21 | 14 | 57.4 | 64.3% |
| February | 0 | 2 | 214.6 | 0.0% | 85 | 118 | 16.3 | 47.5% | 26 | 23 | 48.6 | 60.9% |
| March | 0 | - | 0.0 | 0.0% | 0 | - | 0.0 | 0.0% | 0 | - | 0.0 | 0.0% |
| Year to date | 7 | 14 | 131.2 | 0.0% | 1,412 | 1,538 | 17.2 | 44.2% | 325 | 251 | 53.4 | 60.2% |

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.

Record of meetings between Planning Officers and Public Representatives 2017-2018

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| DATE OF MEETING | PLANNING OFFICER'S NAME/S | PUBLIC REPRESENTATIVE'S NAME |
|-----------------|---------------------------|---|
| 3/4/17 | A McKay | M Ritchie MP |
| 4/4/2017 | A McAlarney | Cllr Walker |
| 20/4/17 | P Rooney | M Ritchie MP |
| 27/4/17 | A McAlarney | C McGrath MLA |
| 27/04/17 | A McAlarney M Keane | Cllr W Clarke |
| 09/05/2017 | A McAlarney | C McGrath MLA |
| 11/5/17 | A McKay | M Ritchie MP |
| 1/6/17 | A McAlarney | C McGrath MLA |
| 2/6/17 | G Kerr | Cllr J Tinnelly |
| 20/06/17 | A McAlarney | Cllr Walker |
| 04/08/2017 | A McAlarney | Colin McGrath |
| 04/08/2017 | G Kerr | Cllr David Taylor |
| 15/08/2017 | P Rooney G Kerr | Justin McNulty MLA |
| 25/08/2017 | G Kerr | Cllr J Tinnelly |
| 06/09/2017 | A McAlarney | Cllr Curran |
| 12/09/2017 | A McAlarney | Cllr Devlin |
| 15/09/2017 | A McAlarney | Colin McGrath |
| 21/09/2017 | G Kerr | Cllr David Taylor |
| 05/10/2017 | A McAlarney | Colin McGrath (Office staff Carmel OBoyle attending) |
| 05/10/2017 | A McAlarney | Sean Doran |
| 6/10/17 | A Hay | Cllr Walker + Jim Shannon MP |
| 06/10/2017 | A McAlarney | Cllr Walker Jim Shannon |
| 06/10/2017 | G Kerr P Rooney | Cllr David Taylor |
| 09/10/2017 | G Kerr | Cllr Brian Quinn |
| 20/10/2017 | G Kerr O'Toole | Cllr David Taylor |
| 23/10/2017 | G Kerr | Cllr J Tinnelly |
| 24/10/2017 | A McKay G Kerr | Cllr J Tinnelly |
| 27/10/2017 | P Rooney | Cllr Brian Quinn |
| 31/10/2017 | A McAlarney | Cllr Harry Harvey |
| 03/11/2017 | G Kerr | Cllr D McAteer |
| 06/11/2017 | G Kerr | Cllr G Fitzpatrick |
| 07/11/2017 | L O'Hare | Cllr D McAteer |
| 15/11/2017 | A McAlarney | Colin McGrath |
| 17/11/2017 | G Kerr | Cllr Brian Quinn |
| 20/11/2017 | G Kerr P Rooney | Cllr Brian Quinn |

Record of meetings between Planning Officers and Public Representatives 2017-2018

335

| | | |
|------------|-------------|--------------------------------|
| 24/11/2017 | A Davidson | Cllr David Taylor |
| 28/11/2017 | A Davidson | Cllr Terry Hearty |
| 01/12/2017 | G Kerr | Cllr J Tinnelly |
| 11/12/2017 | A McAlarney | Cllr Walker Jim Shannon MLA |
| 18/12/2017 | A McAlarney | Cllr W Clarke |
| 31/01/2018 | A McKay | C Hazzard MP |
| 02/02/2018 | A McAlarney | Cllr Walker |
| 13/02/2018 | A McAlarney | Cllr Enright |
| 16/02/2018 | A McAlarney | Colin McGrath MLA |
| 22/02/2018 | A McAlarney | CllrWilliam Walker |
| 09/03/2018 | A McAlarney | Cllr Sharvin |
| 21/03/2018 | A McAlarney | Colin McGrath |
| 26/03/2018 | A McAlarney | CllrWilliam Walker |
| 29/03/2018 | A McAlarney | Cllr Sharvin |

Current Appeals

337

| | | | |
|--|--|---------------------------|------------|
| ITEM NO | 3 | | |
| Planning Ref: | LA07/2017/0624/ | PAC Ref: | 2017/A0094 |
| APPELLANT | Mary Rooney | DEA | Crotlieve |
| LOCATION | 80A Kilbroney Road Rostrevor BT34 3R1 | | |
| PROPOSAL | Single storey side and rear extension | | |
| APPEAL TYPE | DC - Non Determination of a Planning Application | | |
| Appeal Procedure | Written Reps | Date Appeal Lodged | 25/08/2017 |
| 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 | 4 | | |
| Planning Ref: | LA07/2017/0172/ | PAC Ref: | 2017/A0114 |
| APPELLANT | SCS | DEA | Newry |
| LOCATION | Lindsay's Hill Approx 60 Metres South East Of 53-55 North Street Newry BT34 1DD | | |
| PROPOSAL | Renewal of Extant Planning Approval Ref. P/2011/0340/F for residential development of 14 units (of social housing) with new access road from St Clare's Avenue | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Informal Hearing | Date Appeal Lodged | 25/09/2017 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

338

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|--|---|---------------------------|------------|
| ITEM NO | 5 | | |
| Planning Ref: | LA07/2017/0563/ | PAC Ref: | 2017/A0121 |
| APPELLANT | Mr John Morgan | DEA | Crotlieve |
| LOCATION | Land 20m North Of 24 Ballyvally Mayobridge | | |
| PROPOSAL | RT34 2RT 2 dwellings with detached garages to rear | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 22/12/2017 |
| 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 | 6 | | |
| Planning Ref: | LA07/2017/0145/ | PAC Ref: | 2017/A0151 |
| APPELLANT | Cathal Sloan | DEA | The Mournes |
| LOCATION | Lands Approximately 55 Metres South Of 14 Sandy Brae Attical | | |
| PROPOSAL | Site for dwelling and detached garage at existing cluster of development in the countryside | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Informal Hearing | Date Appeal Lodged | 30/10/2017 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

339

| | | | |
|--|---|---------------------------|------------|
| ITEM NO | 7 | | |
| Planning Ref: | LA07/2017/0371/ | PAC Ref: | 2017/A0158 |
| APPELLANT LOCATION | Kieran And Briega King 56a Drumintee Road Meigh | DEA | Newry |
| PROPOSAL | Newry Retention of existing caravan port at rear of dwelling | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Written Reps with Site Visit | Date Appeal Lodged | 07/11/2017 |
| 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 | 8 | | |
| Planning Ref: | LA07/2015/1123/ | PAC Ref: | 2017/A0161 |
| APPELLANT LOCATION | Quayside Propoeties Ltd 2-3 Sugarhouse Quay Lisdrumgullion | DEA | Newry |
| PROPOSAL | Newry Demolition of remaining parts of building for health and safety reasons | | |
| APPEAL TYPE | DC - Refusal of LB Consent | | |
| Appeal Procedure | Written Reps with Site Visit | Date Appeal Lodged | 15/11/2017 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

ITEM NO 9

Planning Ref: LA07/2017/0370/ **PAC Ref:** 2017/A0165

APPELLANT Fergal Rafferty **DEA** Slieve Gullion

LOCATION 16 Ummeracam Road
Silverbridge

PROPOSAL ^{Newry} Retention of two storey projection to southern gable of dwelling, alterations to bay windows at front of dwelling and alterations to window fenestration to side and front elevations of dwelling

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Date Appeal Lodged** 15/11/2017

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

ITEM NO 10

Planning Ref: LA07/2017/0687/ **PAC Ref:** 2017/A0168

APPELLANT Steven And Diane Campbell **DEA** The Mournes

LOCATION 30m North Of 94 Greencastle Road
Kilkeel

PROPOSAL ^{RT34, 4DF} Infill site for new dwelling and garage in existing cluster (amended plans)

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Written Reps with Site Visit** **Date Appeal Lodged**

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

Current Appeals

341

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|----------------------|---|-----------------|------------|
| ITEM NO | 11 | PAC Ref: | 2017/A0169 |
| Planning Ref: | LA07/2016/1647/ | DEA | Newry |
| APPELLANT | DBM Contracts | | |
| LOCATION | 20 Metres East Of 6 Daisy Hill Carnagat | | |
| PROPOSAL | Newry Erection of two dwellings and retention of retaining walls | | |

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| APPEAL TYPE | DC- Refusal of Planning Permission | Date Appeal Lodged | 22/11/2017 |
| Appeal Procedure | | | |
| 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 | 12 | PAC Ref: | 2017/A0178 |
| Planning Ref: | LA07/2017/0786/ | DEA | Slieve Croob |
| APPELLANT | Walter Watson | | |
| LOCATION | 4 Drumnaquoile Road Castlewellan | | |
| PROPOSAL | Replacement dwelling and detached garage | | |

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|--|------------------------------------|---------------------------|------------|
| APPEAL TYPE | DC- Refusal of Planning Permission | Date Appeal Lodged | 04/12/2017 |
| Appeal Procedure | | | |
| 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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|----------------------|---|-----------------|----------------|
| ITEM NO | 13 | PAC Ref: | 2017/A0181 |
| Planning Ref: | LA07/2017/0856/ | DEA | Slieve Gullion |
| APPELLANT | Brian Hollywood | | |
| LOCATION | 20 Lough Road Mullaghbawn | | |
| PROPOSAL | RT35 OXP Proposed change of use from Spa Centre Business to dwelling with some minor renovations | | |

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|--|------------------------------------|---------------------------|------------|
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Informal Hearing | Date Appeal Lodged | 06/12/2017 |
| Date of Hearing | | 15/03/2018 | |
| 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 | PAC Ref: | 2017/A0186 |
| Planning Ref: | LA07/2017/1174/ | DEA | Slieve Croob |
| APPELLANT | Brendan McCartan Esq | | |
| LOCATION | Approx 18m North Of 156 Downpatrick Road Rallynahinch | | |
| PROPOSAL | Dwelling & garage | | |

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| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 11/12/2017 |
| 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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|--|---|---------------------------|----------------|
| ITEM NO | 15 | | |
| Planning Ref: | LA07/2017/0319/ | PAC Ref: | 2017/A0188 |
| APPELLANT | Mr Sean O'Hare | DEA | Slieve Gullion |
| LOCATION | 10A Limekiln Road Newry BT35 7JX | | |
| PROPOSAL | Retention of authorised treatment facility for end-of-life vehicles, including access road and all associated site infrastructure, including areas of hardstanding, drainage systems, all buildings, structures, racks, fencing and gates | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Informal Hearing | Date Appeal Lodged | 12/12/2017 |
| Date of Hearing | | 18/04/2018 | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

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|--|--|---------------------------|-------------|
| ITEM NO | 16 | | |
| Planning Ref: | LA07/2017/0018/ | PAC Ref: | 2017/A0189 |
| APPELLANT | Rozanna Huq | DEA | Downpatrick |
| LOCATION | To The South Of 24 Crossgar Road East Crossgar BT30 9ER | | |
| PROPOSAL | Proposed 2no infill dwellings and garages (Amended site plan received re: Site splays). | | |
| APPEAL TYPE | DC - Conditions of Approval | | |
| Appeal Procedure | | Date Appeal Lodged | 11/12/2017 |
| 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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|--|---|---------------------------|------------|
| ITEM NO | 17 | | |
| Planning Ref: | LA07/2017/0563/ | PAC Ref: | 2017/A0201 |
| APPELLANT | Mr John Morgan | DEA | Crotlieve |
| LOCATION | Land 20m North Of 24 Ballyvally Mayobridge | | |
| PROPOSAL | RT34 2RT 2 dwellings with detached garages to rear | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Informal Hearing | Date Appeal Lodged | 09/03/2018 |
| 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: | LA07/2017/0114/ | PAC Ref: | 2017/A0202 |
| APPELLANT | Mr Vincent McGuinness | DEA | Newry |
| LOCATION | 210m South 30 Low Road Killeavy | | |
| PROPOSAL | Newry Retention of existing industrial units and yard area for use as a waste transfer station. Includes associated car parking, external storage area and weighbridge. | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 22/12/2017 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

ITEM NO 19
Planning Ref: LA07/2017/1138/ **PAC Ref:** 2017/A0209
APPELLANT Bernard Morgan **DEA** Newry
LOCATION Adjacent To And Immediately South East Of No.1 Newtown Court
 Newtown Road
 Clinghogue
PROPOSAL Erection of Agriculture Buildings

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure Informal Hearing **Date Appeal Lodged** 11/01/2018
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: LA07/2016/0952/ **PAC Ref:** 2017/A0213
APPELLANT D & M Downey **DEA** Newry
LOCATION 113-117 Dublin Road
 Newry
 RT35 RQP
PROPOSAL Sub-division of part of existing bulky goods retail warehouse (No 115)
 to provide 3 No. ground floor class A1 retail units with new shopfronts
 (the 3 No. units to operate without compliance with the bulky goods
 condition on approval P/1993/0605); and western extension of site area

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure Informal Hearing **Date Appeal Lodged** 18/01/2018
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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|----------------------|--|-----------------|-------------|
| ITEM NO | 21 | PAC Ref: | 2017/A0214 |
| Planning Ref: | LA07/2016/1331/ | DEA | Downpatrick |
| APPELLANT | Ms Joanna Magee | | |
| LOCATION | Lands Adjoining And Between 57 And 61 Churchtown Road Downpatrick | | |
| PROPOSAL | Two detached dwellings and garages | | |

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| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 23/01/2018 |
| 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 | 22 | PAC Ref: | 2017/A0228 |
| Planning Ref: | LA07/2017/0770/ | DEA | Slieve Croob |
| APPELLANT | Mr And Mrs J McPolin | | |
| LOCATION | 13 Downpatrick Road Ballynahinch RT24 RSH | | |
| PROPOSAL | Proposed detached garage, rear extension to dwelling and extended site curtilage | | |

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|--|------------------------------------|---------------------------|------------|
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 20/02/2018 |
| 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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|----------------------|--|-----------------|----------------|
| ITEM NO | 23 | | |
| Planning Ref: | LA07/2017/0823/ | PAC Ref: | 2017/A0246 |
| APPELLANT | Adrian McParland | DEA | Slieve Gullion |
| LOCATION | Adjacent And 30m South-west Of No.20 Newry Road Belleek | | |
| PROPOSAL | Armanh Site for dwelling and garage (Policy CTY8) | | |

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|--|------------------------------------|---------------------------|------------|
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 09/03/2018 |
| 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 | 24 | | |
| Planning Ref: | LA07/2017/1095/ | PAC Ref: | 2017/A0251 |
| APPELLANT | Mr William Jordan | DEA | Rowallane |
| LOCATION | 1 Milltown Lane Carsontown Road Saintfield | | |
| PROPOSAL | Detached garage and store (partly constructed) | | |

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| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 15/03/2018 |
| 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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|----------------------|---|-----------------|----------------|
| ITEM NO | 25 | PAC Ref: | 2017/A0254 |
| Planning Ref: | LA07/2017/1627/ | DEA | Slieve Gullion |
| APPELLANT | Mr Gerard Donnelly | | |
| LOCATION | 20 Metres East Of 15 Newry Road And 45 Meters North Of 96 Maphoner Road Mullaghbawn | | |
| PROPOSAL | Proposed 2 No. dwellings on an in-fill site | | |

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|--|------------------------------------|---------------------------|------------|
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 21/03/2018 |
| 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 | 26 | PAC Ref: | 2017/E0046 |
| Planning Ref: | LA07/2017/1400/ | DEA | Slieve Croob |
| APPELLANT | Nu Screen Ltd | | |
| LOCATION | 70 Ballywillwill Road Castlewellan BT31 9L6 | | |
| PROPOSAL | Erection of engineering workshop and the carrying on of a fabrication and glazing business | | |

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|--|------------------------------------|---------------------------|------------|
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 17/01/2018 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

| | |
|-------------------------------|--|
| Appeal Reference: | 2016/A0224 |
| Appeal by: | Mr William McCluskey. |
| Appeal against: | The refusal of outline planning permission. |
| Proposed Development: | 2 No. proposed dwelling houses. |
| Location: | lands between 1 Brae Road and 212 Belfast Road, Ballynahinch. |
| Planning Authority: | Newry, Mourne and Down District Council. |
| Application Reference: | LA07/2016/0365/O |
| Procedure: | Written representations and accompanied site on 11th January 2018. |
| Decision by: | Commissioner Damien Hannon, dated 14 th March 2018. |

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and its impact on visual amenity and rural character.
3. The appeal site lies within the open countryside outside any settlement development limits as designated in the Ards and Down Area Plan 2015 (ADAP), which operates as the relevant Local Development Plan (LDP). The LDP however, contains no provisions specific to the appeal proposal.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. During this transitional period planning authorities will apply existing retained policy including Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21) and the SPPS. However, paragraph 1.12 of the SPPS states that where the SPPS introduces a change of policy direction and/or provides a policy clarification that would be in conflict with the retained policy, the SPPS should be afforded greater weight in the assessment of individual planning applications. However, where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies, this should not be judged to lessen the weight to be afforded to the retained policy.
5. The provisions of the SPPS in respect of new dwellings in existing clusters are less prescriptive than those of retained policy and no other conflict arises between the

SPPS and any other retained policy. In these circumstances the policy context relevant to this appeal is provided by PPS 21.

6. Policy CTY 1 of PPS 21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside. The appellant argued that the proposal constituted acceptable development as the infilling of a small gap site in accordance with Policy CTY 8 and as dwellings sited within an existing cluster of development in accordance with Policy CTY 2a.
7. Belfast and Brae Roads join at right angles to form a 'T' junction. The appeal site is a roughly rectangular plot of land with a 90m frontage onto Belfast Road, which forms its eastern boundary and a 40m frontage onto Brae Road which forms its southern boundary. A dwelling and its curtilage at No 212 Belfast Road abuts the appeal site's northern boundary while No. 1 Brae Road, the easternmost of a row of three detached dwellings fronting Brae Road, forms the its western boundary.
8. Policies CTY 8 and CTY 14 both state that planning permission will be refused for a building which creates or adds to a ribbon of development. Nos. 1, 3, and 5 read as a ribbon of development fronting Brae Road. The southernmost of the proposed dwellings, with a frontage onto Brae Road as illustrated in the indicative layout, would add to this ribbon. Also, both proposed dwellings would, in conjunction with No 212, create a ribbon of three dwellings along Belfast Road.
9. Policy CTY 8 also states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other environmental requirements. A substantial and built up frontage is defined in Policy CTY 8 as including a line of 3 or more buildings along a road frontage without accompanying development to the rear. The appeal site is a corner plot bounded by 1, 3, and 5 Brae Road to the west and by No. 212 Belfast Road to the north. The appellant argued the appeal site to be a gap site within an otherwise substantial and continuously built up frontage comprising No. 212 Belfast Road and the Brae Road group. However these buildings do not constitute a substantial and continuously built up frontage for the purposes of Policy CTY 8 as they do not share a common road frontage but rather, front two different roads.
10. Consequently, the appeal site is not part of an otherwise continuously built up frontage for the purposes of Policy CTY 8 and the proposal does not constitute a gap site, set out in Policy CTY 8 as acceptable in the countryside.
11. Policy CTY 2a is entitled 'New Dwellings in Existing Clusters' and states that planning permission will be granted for a dwelling at an existing cluster provided all of a number of stated criteria are met namely:
 - The cluster of development lies outside of a farm and consists of four or more buildings of which at least three are dwellings.
 - The cluster appears as a visual entity in the local landscape.
 - The cluster is associated with a focal point.
 - The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.

- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.
 - Development would not adversely impact on residential amenity.
12. There is an accumulation of development, which is mainly residential, on either side of the Belfast Road for a stretch of approximately half a kilometre extending from 212 in the north to No. 199 in the south. However, because of the spaces between them, the varying degree of setback from the road and the screening impact of existing vegetation, these buildings read not as one discrete cluster appearing as a visual entity in the local landscape but rather as a dispersed, loose collection of buildings sited either individually or in small groups.
 13. Nos. 1, 3 and 5 Brae Road and No. 212 Belfast Road constitute a cluster in accordance with criterion 1 above. However, the vegetated embankment forming the appeal site's Belfast Road frontage and existing vegetation along the southern boundary of No. 212 serve to restrict views of the existing buildings from Brae and Belfast roads. Consequently, intervisibility between the Brae Road group and No. 212 is limited and restricted to two static points, one on Brae Road and one on Belfast Road. This group of four dwellings does not therefore appear as a visual entity in the local landscape for the purposes of Policy CTY 2a and the proposal would not meet criterion 2 above. Furthermore, I do not consider a 'T' junction to be a focal point for the purposes of Policy CTY 2a and the proposal would not therefore comply with the third criterion.
 14. Provided existing boundary vegetation is augmented, the appeal site would provide a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. Criterion 4 above would therefore be met. However, the proposal involves addition to ribbon development along Brae Road and the creation of ribbon development along Belfast Road. When viewed from the site's Brae Road frontage and particularly from Belfast Road, the proposed ribbon development would present as visually intrusive in the landscape and would significantly alter the existing character of this part of the countryside. Criterion 5 would therefore be offended. There was agreement that the development would not adversely impact on residential amenity and would comply with criterion 6.
 15. The proposal would offend criteria 2, 3 and 5 and consequently, would not constitute development in compliance with Policy CTY 2a. I have already concluded that the proposal would not be in accordance with Policy CTY 8. Policy CTY 1 goes on to state that other types of development in the countryside will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. No such case was advanced and the Council's objection in principle is upheld and its first reason for refusal based on Policy CTY 1 is sustained. The proposal would add to an existing ribbon of development along Brae Road and create a ribbon of development along Belfast Road thereby further eroding rural character. The Council's objection on rural character grounds is well founded and its second, third and fourth reasons for refusal based on policies CTY 2a, CTY 8 and CTY 14 respectively are sustained. All four of the Council's reasons for refusal, which I have found to be upheld, are determining in this case.

This decision is based on the 1:2500 scale Site Location Map with Indicative Layout and Aerial View numbered 01 by the Council and stamped 'refused' by them on 27th October 2016.

COMMISSIONER DAMIEN HANNON

List of Appearances

| | |
|----------------------|-----------------------|
| Planning Authority:- | Mr Mark Keane |
| Appellant:- | Mr Sam McKee (Turley) |

List of Documents

| | |
|----------------------|-------------------------------------|
| Planning Authority:- | C1 Statement of Case C2 Rebuttal |
| Appellant:- | A1 Statement of Case A2 Rebuttal |



Appeal Decision

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| Appeal Reference: | 2016/A0185 |
| Appeal by: | Matt Burns |
| Appeal against: | The refusal of outline planning permission |
| Proposed Development: | Farm retirement dwelling |
| Location: | Opposite No.107 Kilbroney Road, Rostrevor |
| Planning Authority: | Newry, Mourne & Down District Council |
| Application Reference: | LA07/2016//0381/O |
| Procedure: | Written representations and accompanied site visit on 4 May 2017 |
| Decision by: | Commissioner Brigid McGlinchey dated 22 March 2018 |

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposal is acceptable in principle in the countryside and its impact on the character of the area.
3. The Planning Act (Northern Ireland) 2015 requires the Commission in dealing with the appeal to have regard to the local development plan, in so far as material to the application, and to any other material considerations. The Banbridge Newry & Mourne Area Plan 2015 operates as the local development plan for the area. In the Plan the appeal site is located in the rural area within the Mourne Area of Outstanding Natural Beauty (AONB). No objections were raised by the Council in respect of the impact of the development on the AONB. The Plan contains no specific provisions which are material to the site or the appeal proposal. The Strategic Planning Policy Statement for NI (SPPS) is material to all decisions on individual planning applications and appeals. It identifies policy documents that are retained including Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) which provides the relevant policy context in this appeal.
4. Policy CTY1 of Planning Policy Statement 21 (PPS21) identifies various types of development which in principle are acceptable in the countryside. One of these is a dwelling on a farm in accordance with Policy CTY10. This policy is expressed permissively stating that planning permission will be granted where three criteria are met. The planning authority accepts that the farm business is currently active and established for more than 6 years and that no development opportunities had been sold off from the farm holding thus satisfying criteria (a) and (b). Its objection is that the proposal fails to comply with criterion (c) which requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.

5. Whilst the application is in respect of a farm retirement dwelling for the appellant, Matt Burns, the farm business is in the joint name of both the appellant and his daughter Mrs Clerkin. The submitted maps identify the farm holding as comprising two separate elements with 1 field at Kilbroney Road (the appeal site) and 6 fields at Sandbank Road. Notwithstanding the Council's concern that the farm holding has been manipulated/artificially divided since permission was refused in 2014 in respect of a similar planning application submitted by the appellant under P/2013/0217/O, I must assess the proposal based on the farm holding as currently presented in the farm maps.
6. The appeal site comprises a large roadside field that fronts onto the Kilbroney Road. The appellant's dwelling at No.107a and an adjacent shed in his ownership are located on the opposite side of the road. There was no dispute that these represented an established group of buildings on the farm. The appellant contends that a dwelling sited on the appeal site would be visually linked and would cluster with these buildings.
7. Paragraph 5.41 of the amplification of Policy CTY10 advises that proposed dwellings on farms should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them. Given the detached arrangement either side of the Kilbroney Road, the visual separation between a dwelling on the appeal site and the subject farm buildings would be apparent when travelling in either direction along the road. Whilst the frontage of the site is approximately 20m from the appellant's dwelling at its closest point and a building positioned in the front eastern portion of the site would be seen in proximity to the farm grouping, I nonetheless consider that it would not read as an integral part of the established buildings but rather as a separate entity on the other side of the road.
8. Whilst the proposal may read as clustering with the buildings from the identified long distance view on Newtown Road, this does not set aside the more critical closer views along Kilbroney Road. Along Kilbroney Road the proposed building on the appeal site would appear physically separated from the established farm group. It would not be visually linked nor could it be sited to cluster with the established group of buildings on the farm to satisfy the initial requirement of criterion (c).
9. The appellant's evidence on this issue is premised primarily on the deliberations of the case officer regarding the previous historic planning application submitted by the appellant on the appeal site (P/2013/0217/O). I note however that the comments of that case officer were not supported by the final corporate opinion of the planning authority at that time, the Department of the Environment, which ultimately refused permission for that application. Furthermore, the case officer's comments in that application do not reflect the opinion of the present planning authority. I therefore attach little weight to those comments and they do not alter my assessment of the relationship of the appeal proposal to the established farm buildings.
10. Criterion (c) goes on to state that exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm and where there are demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group. Though there is a large shed located to the northwest of the appeal site, this is a single entity that is owned by the appellant's son-in-law (Mr Clerkin) and is not part of the farm holding. The site location map that accompanied

the planning application shows that the appellant is also in possession of two other fields to the rear of the farm buildings on the other side of the road. Whilst these were formerly shown to be part of the holding in the historic planning application, they no longer form part of the holding and cannot be considered under this appeal as an alternative site. Therefore the health and safety concern raised by the appellant in respect of the access to a dwelling if sited to the rear of the farm buildings is superfluous. Furthermore, there was no evidence that there are verifiable plans to expand the farm business at the existing building group.

11. Considering all the matters raised, I have not been provided with any substantive evidence that merits setting aside the requirement for the proposal to be visually linked or sited to cluster with an established group of buildings on the farm. I conclude that the Council is justified in finding that the appeal proposal fails to satisfy criterion (c) of Policy CTY10.
12. Policy CTY10 goes on to state that the proposal must also meet the requirements of Policy CTY13 and Policy CTY14 which I consider below.
13. Policy CTY13 provides criteria for assessing the capability of a new building to visually integrate into the surrounding landscape. The appeal site has an area of almost 0.9ha and extends approximately 120m back from the road. It has a frontage of about 80m defined by a wooden ranch style fence. The other boundaries are demarcated by a post and wire fence to the south along the laneway leading to the shed, an earth bank along the west separating it from the yard of the shed and a mature hedgerow along the northern perimeter. The site which rises gently upwards from the road is open to views from the site frontage and from a stretch of the Kilbroney Road approaching from the south. I judge that the site would not provide a suitable degree of enclosure for a new building without relying primarily on new landscaping to satisfactorily integrate the development on such a large site. This would be contrary to criteria (b) and (c). Even if the ridge height of the dwelling was under 6m in height, the shed and the earth bank to the rear would only provide a backdrop if the proposed dwelling was sited to the western half of the site which would further increase the physical and visual separation of it from the subject farm buildings. This would be at odds with criterion (g) which specifically refers to the requirements for a dwelling on a farm to visually linked or sited to cluster as set out under Policy CTY10. I consider that a dwelling on the appeal site would not successfully integrate into the landscape contrary to Policy CTY13.
14. Policy CTY14 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 the area. The policy lists a number of criteria where a new building in the countryside would be unacceptable one of which is where it creates or adds to a ribbon of development with specific reference made to Policy CTY8. Policy CTY8 indicates that planning permission will be refused for a building which creates or adds to a ribbon of development. The amplification of that policy indicates that buildings sited back, staggered at angles and with gaps can represent ribbon development if they have a common frontage and are visually linked. A dwelling (No.108) is located to the north of the appeal site with another dwelling (No.110) set back from and further along the road. I consider that a building sited anywhere on the appeal site would be viewed collectively with the properties at Nos. 8 and 10 when travelling north along Kilbroney Road whilst a transient awareness of the buildings with the proposal would be apparent when travelling south. Notwithstanding the separation distances between the appeal site and the existing properties, I consider that the proposal would extend development in a linear fashion on the north side of Kilbroney Road thereby creating a

ribbon of development and resulting detriment to the rural character of the area contrary to Policies CTY8 and consequently CTY14.

15. I consider that the proposal does not comply with the requirement of criterion (c) of Policy CTY10 and fails to meet Policies CTY13 and CTY14 and the latter's reference to Policy CTY8. Policy CTY1 states that other types of development will only be permitted where there are overriding reasons why the development is essential and could not be located in a settlement. No persuasive evidence was presented in this regard. As I have found that the dwelling in the proposed location fails to meet the requirements of policies CTY10, the appeal proposal does not represent development that is acceptable in principle in the countryside under Policy CTY1.
16. The planning authority therefore has sustained its first reason for refusal based on Policies CTY1 and CTY10. As the proposal fails to meet Policies CTY8, CTY13 and CTY14 in that the proposal would not integrate into the countryside and would result in detrimental impact, the Council consequently has sustained its other three reasons for refusal.

This decision is based on Drawing No. 266671p - 1:1250 scale Site location plan submitted with the planning application.

COMMISSIONER BRIGID McGLINCHEY

List of Appearances

Planning Authority:- G Kerr

Appellant:- A Cole
S Clerkin (Daughter of the Appellant)

List of Documents

Planning Authority:- C1 Statement of case + Appendices
C2 Appellant

Appellant:- A1 Statement of case + Appendices



Appeal Decision

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| Appeal Reference: | 2016/A0192 |
| Appeal by: | Darren O'Hagan |
| Appeal against: | The refusal of outline planning permission |
| Proposed Development: | Site for dwelling and detached garage |
| Location: | 60m NE of 11a New Line Road, Hilltown |
| Planning Authority: | Newry, Mourne & Down District Council |
| Application Reference: | LA07/2016/0802/O |
| Procedure: | Written Representations and Accompanied Site Visit on 25 May 2017 |
| Decision by: | Commissioner Brigid McGlinchey dated 14 March 2018 |

Decision

1. The appeal is dismissed.

Reasons

2. The main issue in this appeal is whether the proposed development would be acceptable in principle in the countryside.
3. Section 6(4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan unless material considerations indicate otherwise. The Banbridge Newry & Mourne Area Plan 2015 operates as the local development plan for the area. In the Plan, the appeal site is located in the rural area and within the Mourne Area of Outstanding Natural Beauty (AONB). No objections were raised by the Council in respect of the impact of the development on the AONB. The Plan refers to Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) as setting out planning policies for development in the countryside. The Strategic Planning Policy Statement for NI (SPPS) is material to all decisions on individual planning applications and appeals. There is no conflict or change in policy direction between its provisions and PPS21 in respect of the proposal.
4. Policy CTY1 of PPS21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. This includes a dwelling on a farm in accordance with Policy CTY10. The planning authority accepts that the farm business is currently active and established for more than 6 years and that no development opportunities had been sold off from the farm holding thus satisfying criteria (a) and (b) under this policy. Its objection is that the proposal fails to comply with criterion (c) which requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm. Paragraph 5.41 of the amplification of Policy CTY10 advises that a new dwelling should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them.

5. The appeal site comprises a roadside portion of a field that slopes down from New Line Road. The concept drawing accompanying the application indicates the positioning of the proposed buildings within the SE corner of the appeal site. The proposal is being considered on this basis.
6. The principal farmhouse (No11a) and its associated outbuildings along with another dwelling (No.15) belonging to the appellant's family, are located on the southern side of the road opposite the appeal site. The indicated positioning in the concept drawing sites the proposed dwelling approximately between 20-25m from the farm building closest to the road. Whilst the dwelling would be seen in proximity to the established farm grouping, the intervening physical separation would be readily apparent from both approaches along New Line Road especially as the proposal would be at different level below the road to that of the farm buildings. Notwithstanding the minor nature of the road I consider that the proposed development would be viewed as a separate entity and as a result it would not be sited to visually link or cluster with the established group of buildings.
7. Albeit that the proposal in cited appeal decision 2016/A0009 referred to by the Council was also located on the other side of the road from an established farm grouping and was deemed to be unacceptable, I agree with the appellant that the circumstances are not directly comparable to the appeal proposal. The photographs provided by the appellant indicate that the proposed buildings in that case were to be located on an elevated site above the road thus it is at variance with the current appeal proposal. I have judged the appeal proposal on its own merits and within its own context.
8. Criterion (c) goes on to state that exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm and where there are demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group. The Council stated that that there are other suitable sites on the holding for a farm dwelling that would satisfy the policy requirements. It accepted that the grant of approval for a dwelling between No.11a and the farm buildings in mid-2017 under Policy CTY8 did not thwart consideration of an additional dwelling on the farm holding under Policy CTY10. Albeit that the Council did not engage in discussions with the appellant about other potential sites after it had issued its decision on the appeal application, it is up to the appellant to clarify why he considers that other lands on the holding would not be suitable or practicable. The linear layout of the holding with limited frontage to the road and rising landform is not definitive that there are no other potential sites that would acceptably cluster with the farm buildings. There was no evidence presented regarding plans to expand the farm business or health and safety concerns. The possibility of erecting an agricultural shed in the host field under Part 6 of the Planning (General Development) Order (NI) 1993 (GDO) has no bearing in my determination which must be confined to consideration of established buildings and not any future speculative building.
9. The appellant referred to two planning decisions where he argued that planning permission for dwellings on farms has been granted contrary to Policy CTY10. The Council stated that planning approval under P/2010/0519/O was granted in the context of Department of the Environment advice on the interpretation of PPS21 where there was no established group of farm buildings. This advice was challenged and subsequently withdrawn. This historical permission therefore has no bearing on this appeal. Under the other cited decision S/2013/0077, the Council indicated that in that planning application a farm building existed on the side of the road where the dwelling was proposed. This permission is therefore not comparable to the circumstances in the appeal proposal. In any case, I accept that this permission was granted by a different planning authority and does not bind or set a precedent for the Council in this case.
10. I have not been provided with any substantive evidence that merits consideration under the exceptional provisions of criterion (c) of Policy CTY10 and the other matters raised

would not justify siting the dwelling away from the established group of buildings. I conclude that the Council is justified in finding that the appeal proposal fails to satisfy criterion (c).

11. Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Notwithstanding that the appeal site is below the level of the road, the proposed buildings on this open frontage plot would be read with the dwelling and outbuildings at No.20 and the dwelling and garage of No.18 albeit that this latter property is set back from the road. The proposal would unacceptably add to a ribbon of development on the northern side of New Line Road and consequently result in unacceptable erosion of rural character. The Council has sustained its fourth reason for refusal.
12. Policy CTY1 states that other types of development will only be permitted where there are overriding reasons why the development is essential and could not be located in a settlement. No persuasive evidence was presented in this regard. As I find that the dwelling in the proposed location fails to meet the requirements of policies CTY10 and CTY8, the proposal does not represent development that is acceptable in principle in the countryside under Policy CTY1 and consequently is not acceptable under the SPPS. The planning authority has sustained its first reason for refusal.
13. Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape. Two of the boundaries of the proposed curtilage are undefined. The proposal to create a new access necessitates removal of much of the roadside hedge leaving only one established boundary. Though new planting is proposed on the boundaries and behind the visibility splays this will take some time to establish to provide any meaningful enclosure. Notwithstanding that the site slopes down from the road, views would be readily available into the site from both directions along New Line Road. The lack of established boundaries means that the site would not provide a suitable degree of enclosure. In the absence of any landform or other backdrop, the proposed dwelling and garage even if restricted to 6m in height would appear prominent on such an open site. The proposed buildings would rely on the use of new landscaping for integration. I find that the appellant's relative comparison with the Council's consideration of the circumstances and context in planning application P/2014/0798/O (subject of subsequent appeal 2016/A0009), does merit the appeal proposal as being acceptable. The Council has sustained its second reason for refusal.
14. Policy CTY14 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 the area. The appeal proposal would be prominent in the landscape for the reasons set out above. The proposed buildings would be viewed collectively with the properties at Nos. 18 and 20 and also with Nos. 11a and 15. The proposal is not located within this existing built form as argued by the appellant but rather as set out in paragraph 11 above, it extends development in a linear fashion on the north side of New Line Road contrary to planning policy. The proposal would result in a suburban style build up of development with resulting detriment to the rural character of the area. The Council has sustained its third reason for refusal.

This decision is based on Drawing 01 1:2500 scale Site location plan and the 1:500 scale Concept sketch and access layout drawing submitted during the processing of the planning application.

COMMISSIONER BRIGID McGLINCHEY

List of Appearances

| | |
|----------------------|-----------------------|
| Planning Authority:- | G Kerr |
| Appellant:- | N Coffey D O'Hagan |

List of Documents

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| Planning Authority:- | C1 Statement of case + Appendices C2 Rebuttal |
| Appellant:- | A1 Statement of case A2 Rebuttal |



Appeal Decision

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| Appeal Reference: | 2017/A0071 |
| Appeal by: | Mr Gary O'Hare |
| Appeal against: | The refusal of full planning permission |
| Proposed Development: | Construction of 2 No. new detached one and a half storey infill dwellings with detached garages, associated site works and new access to the public road. |
| Location: | Lands between No 20B and No 22 Derrycraw Road, Newry |
| Planning Authority: | Newry Mourne and Down District Council |
| Application Reference: | LA07/2017/0077/F |
| Procedure: | Written representations and Commissioner's site visit on 21 December 2017. |
| Decision by: | Commissioner Pauline Boomer, dated 28 February 2018 |

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and its impact on visual amenity and rural character.
3. The appeal site is located in the countryside and not within any designation in the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP). The BNMAP, which operates as the statutory Local Development Plan relevant to the appeal site, contains no provisions specific to this proposal for residential development in the countryside. Furthermore, no conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and any retained policies regarding issues raised by this appeal. Consequently, the relevant policy context is provided by Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21).
4. Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside. The appellant argued that the proposal was acceptable as a gap site in accordance with Policy CTY 8 of PPS 21. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Paragraph 5.32 states that ribbon development is detrimental to the character, appearance and amenity of the countryside. While ribbon development is not defined in policy, it is taken to mean a row of buildings which have a common frontage onto a road or are visually linked

- when viewed from that road. Policy CTY 8 also states that, in respect of ribbon development, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage. The policy also requires that such development to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and to meet other environmental requirements.
5. The appeal site comprises the roadside sections of two large agricultural fields which lie on the south western side of Derrycraw Road, within which it is proposed to erect two detached one and a half storey dwellings and garages. Immediately south east of the appeal site there are two dwellings at Nos 20B and 20A whilst to the north there is a dwelling at No 22 with associated outbuildings. A substantial and continuously built up frontage includes a line of three or more buildings along a road and there is no dispute that the appeal site meets the first element that is required in order to qualify as an infill site.
 6. The 2nd element of Policy CTY8 requires that the gap site to be small. The third element requires that any development respect the existing development pattern along the frontage in terms of size, scale, siting and plot size (my emphasis). This excludes any approved development not yet substantially completed and any development on the opposite side of the lane or in the general area which does not form part of the substantial and continuously built up frontage within which the appeal site sits.
 7. There was much debate about the size of the existing gap and how this is to be calculated. The Local Planning Authority (LPA) consider that the existing gap extends to 156m with the measurements taken between the ancillary buildings at Nos 20b and 22. I calculate that the gap between the principal buildings on each adjacent plot extends to 172m. The appellant argues that the perception of the gap is that viewed on the ground at roadside level and that it is inappropriate to consider the gap between buildings. In accordance with Paragraph 5.34 of the Amplification text which makes it clear that the gap is between houses or other buildings and regardless of which figure is used, I concur with the LPA's assessment that the existing gap cannot be considered to fall within the definition of "small". I therefore find that the appeal proposal does not satisfy the 2nd requirement to qualify as an infill site.
 8. The appellant concentrates his assessment on whether the proposed development respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and provides a list of frontage widths, including some that do not form part of the substantial and continuously built up frontage within which the appeal site sits. As only Nos 20A, 20B and 22 contribute to the line of three or more buildings along that side of the road, I can only make direct comparisons with those properties rather than others within the vicinity.
 9. It is acknowledged that the frontage width of the overall appeal site along the roadside extends approximately 104m with Site A and Site B displaying a frontage width of 50.2m and 54.3m respectively. However the width of each of both fields within the appeal site expands as you move westwards away from the road, with the rear site boundary extending 147m in width, with both plots achieving maximum widths of 70m and 77m respectively. Given the lack of definition along the western boundary of the two plots and the rising gradient, it is readily apparent when travelling in a

northerly direction particularly that the ever increasing gap is widening within the site. On the ground, there is an awareness of how extensive the gap between the existing buildings actually is. I note that unlike the appeal site, Nos 20B, 20A and 22 all decrease in width as you move away from the road and it is not therefore appropriate to concentrate only on the frontage widths along the roadside as the appellant has done. In these circumstances, I agree with the LPA that it is the gap between the buildings that offers a true representation of the infill width which is considerably greater than the frontage width. In these circumstances, as I have concluded that the appeal site is neither small nor respectful of the existing development pattern, I find that it fails to satisfy the 2nd and 3rd elements that are required in order to qualify as an infill site. In this respect, the LPA have therefore sustained that part of the 2nd reason for refusal.

10. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. While ribbon development is not defined in policy, it is taken to mean a row of buildings which have a common frontage onto a road or are visually linked when viewed from that road. As the appeal site lies between Nos 20B and 22, the appeal proposal would visually link the development to the south with that immediately north and so would create a ribbon of development along this stretch of the road. As the proposal does not constitute an exception to Policy CTY 8, the LPA's objection on grounds of creating a ribbon of development is well founded. In so doing, it also offends criterion (d) of Policy CTY14 which states that any new buildings are unacceptable if they create a ribbon of development.
11. The appellant argues that given the previous determinations in the area, there are inconsistencies and incompatibility in the interpretation and implementation of policy by both the previous and current planning authorities. He considers that these authorities have already established a precedent for ribbon development in approving LA07/2016/0249/F immediately south of No.20A and LA07/2015/0535/F at No.23B and P/2012/0937/F at No 31 on the opposite side of the road. The LPA offered no rebuttal and failed to explain against what policies these applications were assessed and why they were considered compliant with those policies. As neither party presented me with the full details of these cases, I cannot ascertain if they were assessed against Policy CTY8 or a different policy and am therefore unable to make direct comparisons with the appeal proposal. The appellant also argues that the immediate area has become a substantial suburban-style built up area which has been allowed to develop by the previous and current planning authorities. On this basis he considers it unreasonable and unsound to cite ribbon development as a reason for refusal in this appeal when an existing ribbon of development already exists. I acknowledge that the character of the area has already changed as a result of planning approvals granted and that a ribbon of development does extend along certain stretches of Derrycraw Road but not alongside the appeal site. At present there are existing gaps in development along the southwestern side of the Derrycraw Road which help to retain some rural character and the appeal site, given its size, represent a significant break in development. As the appeal site does not meet the exception as an infill site, the introduction of two large detached dwellings and garages would not only create another ribbon of development but would further erode the remaining rural character. As I conclude that the appeal proposal conflicts with Policies CTY8 and CTY14, that aspect of the 2nd reason for refusal and the third reason for refusal are sustained.

12. No persuasive overriding reasons were advanced as to why the development is essential and could not be located in a settlement. I therefore consider the LPA's objection to the proposal in principle based on Policy CTY 1 to be well founded and the first reason for refusal is also sustained.
13. This is a full planning application and whilst there is no issue with the size, scale or design of the buildings now proposed, concerns are raised about the overall visual impact of the proposal on this open and exposed site. The LPA considers that the appeal proposal conflicts with Policy CTY13 as it lacks long established boundaries to aid integration. Whilst the appeal site does benefit from a backdrop of rising ground, the southwestern boundary is undefined with only a wooden ranch fence defining the southern site boundary and a low hedge along the northern boundary. At least 40m of the roadside hedgerow would be removed to facilitate the necessary sightlines. The appellant indicates that he proposes to introduce new planting with native species hedgerows around all external and internal boundaries which would take time to mature in order to soften the visual impact of the development. This reliance on new planting runs contrary to criterion (c) of Policy CTY13. The appellant argues that the appeal site is not unique in this respect as sites dependant on new planting are commonplace. Whilst he refers me again to other sites approved in the immediate area, in the absence of full details provide by either party, I am unable to make meaningful comparisons. In these circumstances, this does not justify setting aside current policy.
14. Taking account of the open nature of the site at present and the reliance on new planting, I am not satisfied that the proposed development will blend into the landscape. As I am not persuaded that a satisfactory level of integration can be achieved as required under Policy CTY13. I conclude that the fourth reason for refusal has been sustained.
15. As I have found all four reasons for refusal to be sustained, the appeal must fail.

This decision is based on the following drawings:-

Drawing No 120 -:2500 site location plan and 1:250 existing layout plan received by the LPA on 20.1.17;

Drawing No 300 – 1:500 existing and proposed context sections received by the LPA on 20.1.17;

Drawing No 200 REV A - 1:250 site layout plan received by the LPA on 14.4.17;

Drawing No 210 REV A – 1:100/1:250 floor plans and elevations of House A received by the LPA on 14.4.17;

Drawing No 220 REV A – 1:100/1:250 floor plans and elevations of House B received by the LPA on 14.4.17; and

Drawing No. 400 – 1:1000 site plan submitted with Appellant's Statement of Case.

COMMISSIONER PAULINE BOOMER

2017/A0071**List of Documents**

LPA1 Statement of Case from Newry, Mourne and Down District Council

APP1 Statement of Case from Appellant

APP2 Rebuttal from Appellant



Appeal Decision

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| Appeal Reference: | 2017/A0177 |
| Appeal by: | Mr Declan Kearney |
| Appeal against: | The refusal of outline planning permission |
| Proposed Development: | Farm dwelling and garage |
| Location: | 30m west of No.34 Station Road, Killeavy, Newry |
| Planning Authority: | Newry, Mourne and Down District Council |
| Application Reference: | LA07/2017/0375/O |
| Procedure: | Written representations and Commissioner's site visit on 7 th March 2018 |
| Decision by: | Commissioner Diane O'Neill, dated 13 th March 2018 |

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development:
 - is acceptable in principle in the countryside
 - would create ribbon development
 - would result in a detrimental change to the rural character of the area and AONB
 - would be able to integrate into the surrounding landscape
3. Section 45 (1) of the Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. The Banbridge/Newry and Mourne Area Plan 2015 (BNMAP) is the local development plan for the area where the appeal site is located. BNMAP identifies the site as being located within the Ring of Gullion Area of Outstanding Natural Beauty (AONB). BNMAP however identifies this designation for information purposes only. The site is located outside any settlement development limit within BNMAP and is within the countryside. The BNMAP has no material policies for dealing with dwellings in the countryside.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing planning policy statements and amongst these are Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) and Planning Policy Statement 2: Natural Heritage (PPS 2); these provide the relevant policy context for the appeal proposal. The appellant referred to Policy DES 5 (Buildings in the

Countryside) within A Planning Strategy for Rural Northern Ireland however the policy provisions within PPS 21 take precedence over this policy.

5. Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for a single dwelling are outlined. The appellant argued that the appeal proposal represents a dwelling and garage on a farm in accordance with Policy CTY 10 of PPS 21. Whilst the planning authority accepted that the proposal met criteria (a) and (b) of Policy CTY 10, in that the farm business is currently active and has been established for at least 6 years and that no dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of the application, they argued that the proposal would not be visually linked or sited to cluster with an established group of buildings on a farm and therefore contrary to criterion (c). The planning authority also argued that the proposal would be contrary to Policies CTY 8, CTY 13 and 14 of PPS 21, the SPPS and Policy NH 6 of PPS 2.
6. Criterion (c) of Policy CTY 10, which is the basis for the first reason for refusal, states that the new building should be visually linked or sited to cluster with an established group of buildings *on the farm* (my emphasis) and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, it is stated that consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm and where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group(s).
7. The appeal site is located along the roadside and has low level vegetation, stone walls and post and fencing defining its northern-western, north-eastern and southern-eastern boundaries; the south-western boundary is undefined. The appeal site is located within the relatively flat eastern section of a long, narrow roadside field. The appellant is proposing to locate a dwelling and garage opposite his farm yard and buildings which are located along Station Road. The farm buildings are positioned beside each other within the farmyard making them read as one long 'I' shaped visual entity. It is contended that the proposal would be visually linked and sited to cluster with the buildings on the farm however these are visually separated from the appeal site by an intervening public road. Whilst the appellant argued that PPS 21 does not state that a single lane carriageway prohibits clustering or visual linkage, paragraph 5.41 does state that such dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them. The proposed dwelling and garage would have to be sited within the eastern corner of the appeal site in order to try to integrate the proposal. Despite the minor nature of the road and the appellant's argument that the case is distinguishable from appeal 2016/A0009, looking at the particular circumstances in this present appeal, the separation distance that would result between the appellant's farm buildings and the proposal would mean that it would not form an integral part of that building group or be visually interlinked with those buildings

- when travelling in either direction along the Station Road. It would therefore appear as a separate entity to the appellant's farm complex.
8. The appellant stated that the planning authority ignored the adjacent roadside farmhouse and outbuildings, located to the east of the appeal site at No.34 Station Road, which form part of the farm. However, a letter from the appellant's solicitor dated 15th February 2017 states that he does not own the dwelling at No.34 Station Road nor the small field located to the east of No.34. As criterion (c) of Policy CTY 10 requires the buildings to be on the appellant's farm, with paragraph 5.41 stating that it will not be acceptable to position a new dwelling with buildings which are on a neighbouring farm holding, the buildings at No.34 Station Road cannot be taken into account when assessing the proposal against this policy. The appellant also alluded to the fact that he has recently expanded his farm business at Station Road and needs a dwelling adjacent to the existing farmyard and sheds. However, no substantive details were presented. It is also noted that the appellant appears to reside a short distance away on a neighbouring road. No health and safety reasons or verifiable plans to expand the farm business adjacent to the existing group of buildings were presented. Therefore despite the modest definition on the site's boundaries, the presence of roadside vegetation and development at No.34 Station Road and the fact that views would be restricted to along Station Road, this would not prevent the appeal proposal being contrary to criterion (c) of Policy CTY 10.
 9. As the proposal does not meet Policy CTY 10, it is not one of the specified types of development considered to be acceptable in the countryside under Policy CTY 1. The appellant argued that he and his family have a long association with the locality, are active participants in the various businesses, cultural and sporting activities and have a desire to live in the area. However, given that the appellant appears to reside a short distance away, I am not persuaded by these various arguments. Despite it being stated that this site was the appellant's best option for a dwelling and garage on the farm, with reference made to the unsuitability of one siting option, no substantive evidence was presented that this was indeed the case and this does not overcome the fact that the proposal does not meet all of the required criteria of Policy CTY 10. As there are no overriding reasons why the development is essential and could not be located in a settlement, it is contrary to Policy CTY 1 of PPS 21. Accordingly the first reason for refusal is sustained.
 10. The appellant argued that the development would be unobtrusive, have three defined boundaries, would not rely on new landscaping in order to integrate into the landscape and that an appropriate design could be negotiated at detailed reserved matters stage. However, as it has been concluded that the development would not be visually linked or sited to cluster with an established group of buildings on the farm, the proposal would be contrary to criterion (g) of Policy CTY 13. Accordingly, the third reason for refusal is sustained.
 11. Policy CTY 8, which is the basis for the second reason for refusal, states that planning permission will be refused for a building which creates or adds to a ribbon of development. Despite claims that only two buildings could be seen at one time from any viewpoint, travelling along Station Road the proposed dwelling and garage would be viewed with the roadside dwelling at No.34 together with its outbuildings located to the east of No.34; it would elongate development along the road. This would result in the proposal creating ribbon development along this

section of Station Road. Irrespective of the argument that there is open countryside to the west and east of No.34, this built-up appearance along the road would be detrimental to the character, appearance and amenity of the countryside. Accordingly, the second reason for refusal is sustained.

12. Despite the arguments that the proposal would not be a prominent feature, would not lead to suburban style development and would not result in difficulty accessing other land, as the proposed dwelling and garage would result in the creation of ribbon development along Station Road this would have a detrimental impact on the rural character of this area. Accordingly, the fourth reason for refusal in relation to Policy 14 of PPS 21 is sustained.
13. Policy NH 6 of PPS 2 states that planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and where a number of criteria are met. Objection was raised in relation to criterion (a) of the policy in that the siting and scale of the proposal would be unsympathetic to the special character of the AONB in general and of the particular locality. Irrespective of the arguments that the proposal would be of an appropriate modest design and that existing site features would be retained, given that the proposal would create ribbon of development along Station Road and have a detrimental impact on the character of this rural area, its siting would not be sympathetic to the special character of the AONB. Accordingly the fifth reason for refusal has therefore been sustained.
14. As the five reasons for refusal are sustained, the appeal must fail.

This decision is based on Drawing 01 Rev 1 site location map dated received by the planning authority on 12th June 2017

COMMISSIONER DIANE O'NEILL

2017/A0177

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List of Documents

Planning Authority
(Newry, Mourne and Down District Council):-

Statement of Case (PA1)
Rebuttal (PA 2)

Appellant (M.P. Toale & Associates-agent):-

Statement of Case (A 1)



Appeal Decision

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| Appeal Reference: | 2017/A0094 |
| Appeal by: | Ms Mary Rooney |
| Appeal against: | The non-determination of an application for full planning permission |
| Proposed Development: | Single storey side and rear extension. |
| Location: | 80a Kilbroney Road, Rostrevor |
| Planning Authority: | Newry Mourne and Down District Council |
| Application Reference: | LA07/2017/0624/F |
| Procedure: | Written Representations with Commissioner's Site Visit on 16 March 2018 |
| Decision by: | Commissioner Pamela O'Donnell, dated 30 March 2018 |

Decision

1. The appeal is dismissed.

Claim for Costs

2. A claim for costs was made by the Council against the Appellant. This claim is the subject of a separate decision.

Reasoning

3. The appeal building is single storey in height and rectangular in shape with an external area of some 55 sq m. It has a door and two windows on the front elevation and two windows in the rear elevation. The walls are finished in smooth render and the roof is of corrugated tin. It sits gable onto and some 5m set back from the Kilbroney Road in Rostrevor. The appeal proposal seeks to extend the building to the side and rear.
4. Planning approval P/2001/1009/O granted outline planning permission for a replacement dwelling at 80 Kilbroney Road, Rostrevor on 9 August 2001. Condition 5 of this permission indicated that the dwelling permitted would not be occupied until the existing building coloured green on the approved plan (the appeal building) was demolished. It goes on to say that all rubble and foundations were to be removed and the site restored in accordance with a scheme to be submitted to and approved in writing to the Department. A similarly worded condition seeking the demolition of the appeal building was replicated on the approval of the Reserved Matters - P/2002/2382/RM (Condition 2).
5. The planning application for the proposed development, as described above, was submitted on a Householder Development Planning Application form (Form PHD).

- This form is used for applications for full planning permission for works of alterations/extensions to a dwelling or other development for domestic purposes within the curtilage of a dwelling.
6. The Council have indicated that the subject building should have been demolished in accordance with the aforementioned planning approvals as the replacement dwelling is now built and occupied. They argue that the subject building has lost its residential use and thus is not considered to be a dwelling. Accordingly, it can not avail of a residential extension, as proposed.
 7. It is clear that the appeal building was never demolished and that the replacement dwelling is currently occupied and I have not been made aware of any enforcement action taken by the Planning Authority. Section 132 (3) of the Planning Act (NI) 2011 indicates that no enforcement action may be taken after the period of five years beginning with the date of the breach. The Appellant mainly argues that the replacement dwelling was occupied post 2003, that the conditions are no longer enforceable and that the residential use of the building was not abandoned. The Appellant's evidence indicates her intention to secure a determination, at appeal, as to whether or not the residential use has been abandoned and, if not, the assessment of the proposal as a residential extension.
 8. In the context of this appeal, the proposal cannot be assessed as proposed, because to do so would be tantamount to accepting that the residential use has not been abandoned and that the subject building is a lawful dwelling. Whilst this is a possibility, there is no certainty and the onus is on the Appellant to demonstrate immunity from enforcement action. Case law has established that the proper vehicle for determining lawfulness is through an application for a Certificate of Lawfulness of Existing or Proposed Development or Use under Sections 169 and 170 of the Planning Act (Northern Ireland) 2011. No such certificate has been issued in this case and in the absence of such, it is unsafe to assume that the appeal building is a lawful dwelling. Whilst the Council (and indeed the Commission at appeal) registered and advertised the proposal as described above, this was carried out because the application was described thus by the Appellant and made on a householder developer form. However, for the reasons given, the proposal cannot be considered as described in the appeal. Rather, without any certificate, the proposal represents a new unit of residential accommodation in the countryside. The planning context for the consideration of such development is provided below.
 9. The Planning Act (Northern Ireland) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. The Banbridge, Newry and Mourne Area Plan 2015 operates as the local development plan for the area where the appeal site is located. The Plan places the appeal site outside any settlement limit and within the countryside and there are no specific policies in the Plan relevant to the determination of the appeal. Furthermore, no conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland and those of retained policy regarding issues relevant to the appeal. Accordingly, the main policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21). The Council's first reason for refusal in respect of PPS21 is not therefore misplaced, as argued by the

Appellant, but a reflection of the status of the proposal, in the circumstances of this case, as a new residential unit in the countryside.

10. Policy CTY1 of PPS21 indicates that there are a range of types of development which are considered to be acceptable in principle in the countryside and it identifies a number of instances where a dwelling may be permitted. The Appellant did not present evidence in relation to Policy CTY1. As such, I must conclude that the proposal fails to comply with this policy. Furthermore, no overriding reasons were presented to deem the proposal essential. Accordingly, the first reason for refusal in respect of Policy CTY1 of PPS21 is sustained insofar as stated.
11. Though the Council could have been clearer in advising the Appellant of the correct approach to determine lawfulness, in the circumstances of this appeal, without a certificate, insufficient information has been provided to determine the appeal as proposed. Additionally, no information has been provided to determine whether or not, as a new unit of accommodation in the countryside, this would be acceptable in principle. The second reason for refusal in respect of the failure to supply adequate information is therefore sustained for these reasons.
12. As both reasons for refusal are sustained, the appeal must fail.

This decision relates to Drawing No IN(00)001 Site Location Map @ 1:1250, Drawing No G(00)101, Proposed Floor Plan and Section Rev A @ 1:100, Drawing No IN(00)101 Existing Floor Plan and Elevations @1:100, Drawing No IN(00)101 Existing Site Block Plan @1:100 and Drawing No G(00)001 Proposed Site Block Plan @1:100 stamped received by the Council on 2 February 2017,

COMMISSIONER PAMELA O'DONNELL

2017/A0094

List of Documents

Planning Authority:-

'A' Statement of Case
'A1' Rebuttal

Appellant(s):-

'B' Statement of Case
'B1' Statement of Case



Appeal Decision

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| Appeal Reference: | 2017/A0151. |
| Appeal by: | Mr Cathal Sloan. |
| Appeal against: | The refusal of outline planning permission. |
| Proposed Development: | Site for dwelling and detached garage at existing cluster of development in the countryside. |
| Location: | Lands approximately 55 metres south of 14 Sandy Brae, Attical. |
| Planning Authority: | Newry Mourne & Down District Council. |
| Application Reference: | LA07/2017/0145/O. |
| Procedure: | Hearing on 7 February 2018. |
| Decision by: | Commissioner Mark Watson, dated 28 March 2018. |

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council in its Statement of Case referred to Policy NH6 of Planning Policy Statement 2 – Natural Heritage, stating that it had concerns regarding the impact on the Mourne Area of Outstanding Natural Beauty. However, no reason for refusal was advanced under this policy and at the hearing the Council's witness confirmed that no objection under Policy NH6 of PPS2 was being advanced.
3. In its Statement of Case the Council accepted that, without prejudice to its overall argument that the relevant policy was not met, the appeal site lay in proximity to an existing cluster of development associated with a focal point. Given this I need not address the content of the additional statement provided by the Appellant in respect of that particular issue. The history of processing of the application and how it was initially presented to the Council Planning Committee is not a determining matter for this appeal.

Reasons

4. The main issues in this appeal are whether or not the appeal development would:
 - be acceptable in principle;
 - result in ribbon development;
 - fail to integrate; and
 - adversely impact on rural character.
5. The Banbridge Newry and 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 single dwelling and is not material. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21) in respect of the appeal proposal. The policy provisions of PPS21 remain applicable to the proposed development.
6. The site comprises the south-eastern section of a grassed agricultural field situated on a laneway serving a number of detached dwellings. The Sandy Brae laneway runs off the Tullyframe Road and loops back round to re-join the same road some distance to the east. The site itself is bounded on three sides by dry stone walls, whilst the north-western boundary is undefined. The site slopes upwards to the north, with rising land beyond the site to the north and north-west. A private laneway runs adjacent and alongside the north-eastern site boundary and serves two dwellings, Nos. 10 and 12 Sandy Brae, that lie further to the north-west on higher land. No. 14 Sandy Brae, a single storey dwelling, lies on the opposite side of the laneway to the north of the site. Nos. 8 and 6 Sandy Brae, also single storey dwellings, lie adjacent and east of No. 14. Adjacent and south-west of the appeal site lies a recently built 1.5 storey replacement dwelling and detached garage. Opposite and south-east lies No. 134 Tullyframe Road, a two storey dwelling. The Holy Cross Park football ground grounds and Club House lie beyond and east of that dwelling. A community centre lies adjacent and south of the football pitch.
 7. 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. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a. Another is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8. It follows that if the development complies with either CTY2a or CTY8 it will also comply with Policy CTY1 of PPS21.
 8. Policy CTY2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all of six criteria are met. The Council considered that the appeal development failed to meet the fourth and fifth criteria. The fourth criterion is that the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. The fifth criterion is that development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.
 9. The Appellant identified what he considered to be the existing cluster in his statement of case. The Council accepted that Figure 6 in the Appellant's Statement of Case encapsulated the existing cluster, except for the new-build 1.5 storey adjacent and south-west of the appeal site, which it considered, like the appeal site itself, lay outside the cluster. Whilst in its written evidence the Council refer to that same dwelling bounding the appeal site on one side, the final position of the Council at hearing was that this dwelling lay outside the cluster. Whilst this is somewhat contradictory given the assessment under the fourth criterion was within the context that development bounding the site must lie within the cluster in the first instance, I shall nevertheless make my own conclusion as to the extent of the cluster.

10. The Appellant suggested that the laneway adjacent and north-east of the site did not separate the site from No. 14, particularly as there was no policy definition of "bounded" in Policy CTY2a. From a common sense reading of Policy CTY2a, despite the permissive nature of the policy, the term "bounded" suggests to me that the site must connect or be immediately adjacent to other development on at least two sides, even if the words "immediately" or "directly" do not precede the word "bounded" in the policy. The tests contained within the various criteria of Policy CTY2a predominantly comprise visual assessments. Whilst I note the Appellant's land ownership map and how it differs from the appeal site boundary, I am not persuaded that legal ownership should be adopted as a substitute or alternative means to assess whether a site is bounded by other development in the cluster. It was also suggested that the neighbour notification process could provide assistance in defining neighbouring land. The neighbour notification process exists for a different purpose. I am not persuaded that definitions or distances relating to the notification of neighbouring dwellings in the planning application process should be a determining factor under Policy CTY2a. The Appellant's supporting information cited an application (ref. LA07/2016/1156/F, Carrowdore Rd, Belleek) where the neighbouring land concept was accepted by the Council. I do not have the detailed information as to how the planning authority reached that decision, but regardless, I am not persuaded that an instance of questionable decision making should be replicated.
11. The Appellant also considered that the laneway itself could represent development which bounded the site on one side. Policy CTY2a, although pertaining to a dwelling at an existing cluster of development, when read as a whole relates to the clustering of buildings and does not encompass all types of development. Thus I am not persuaded that the laneway itself constitutes "development" bounding the appeal site for the purposes of the policy. Nor am I persuaded that greater flexibility should be employed in this case in assessing the appeal development against this criterion, or the policy as a whole, even if PPS21 did not envisage every potential scenario for development proposals.
12. Whilst the new-build 1.5 storey dwelling lies adjacent and south-west of the appeal site, I disagree with the Appellant that it lies within the existing cluster. Whilst the other buildings identified in the Appellant's Figure 6 appear as a visual entity in the landscape and read as a cluster, the new-build does not form part of that cluster given its visual relationship to the cluster and position on the opposite side of the Sandy Brae laneway. Thus, although bounded on one side by that 1.5 storey dwelling and its garage, those buildings are not in the existing cluster. To the other side of the appeal site to the north-west lies a laneway that serves Nos. 10 and 12 Sandy Brae. Although the Appellant considered the site to be bounded on the north-eastern side by No. 14, that dwelling and its curtilage lie on the other side of the laneway. The laneway serving Nos. 10 and 12 and the obvious physical gap it provides between the site and No. 14 is such that I am not persuaded that the appeal site is bounded on that side by No. 14. It was also suggested that No. 134 Tullyframe Road bounded the site on the eastern side. I do not agree given the disposition of that dwelling and the fact it lies south-east of the site on the opposite side of the Sandy Brae laneway. The land directly opposite and east of the appeal site is heavily overgrown and even if it is to be cleared or cut back, it would not assist the Appellant's argument in visually lining the appeal site to the existing cluster. It was suggested that a proposed granny flat for No. 134, still to be submitted as a

planning application, would visually link the appeal site to No. 134 and the cluster. However, the appeal must be decided on the circumstances at the time of the decision, not on a potential future scenario.

13. In respect of the suitable degree of enclosure element of the fourth criterion, the site does not provide this given the width of the frontage and the topography of the wider landform the site lies within when viewed travelling from the Appellant's identified viewpoints B to A. Despite the falling land to the west when travelling from B to A towards the bend in the Sandy Brae laneway at No. 14, the site appears open and exposed, even with the rising land to the north and north-west of the site. I am not persuaded that the existing buildings provide enclosure for the site. The laneway that separates the site from No. 14 serves two other dwellings, thus I accept that it comprises a public viewpoint, contrary to the Appellant's assertion. From here the site reads as open and lacking sufficient enclosure for the appeal dwelling, even though there are three in situ boundaries. For the reasons given above, the appeal site does not provide a suitable degree of enclosure. The Council referred to views from the Tullyframe Road, however from here the appeal development would barely be seen and the glimpsed views would not be critical in respect of consideration of the appeal development under Policy CTY2a or indeed Policies CTY13 and CTY14. However, notwithstanding this, the fourth criterion of Policy CTY2a is not met.
14. In respect of the fifth criterion, the appeal site would not round off existing development given its disposition in relation to the existing buildings within the locality. Although the site occupies the lowest part of the host field and despite the rising landform to the north / north-east, development of the appeal site would still extend the cluster rather than consolidating it. At present the existing cluster only straddles the Sandy Brae laneway at the upper, northern side, above Holy Cross Park, with the cluster lying on the sloping landform that runs north from Holy Cross Park. This extension to the cluster would allow it to cross onto the opposite side of the Sandy Brae laneway on the western side of the cluster, significantly altering its existing character from views on Sandy Brae to the south-west of the new build dwelling. The fifth criterion of Policy CTY2a is not fully met.
15. The appeal development does not satisfy two of the criteria of Policy CTY2a, which I find critical in respect of the appeal development. The appeal development does not meet Policy CTY2a of PPS21 when read as a whole. Reference was made to several appeal decisions and planning application decisions, contained in the Appellant's submitted Statement of Case and supporting information at application stage. However, these are not on all fours with the appeal site given the differing site contexts and relationships those sites had to the existing buildings in the vicinity. In any event, each application must be assessed on its own merits. They would not alter my conclusions in respect of Policy CTY2a above. The second reason for refusal is sustained insofar as specified.
16. Policy CTY8 of PPS21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. The policy states that for its purposes, the definition of a substantial and built up frontage includes a line of 3 or

- more buildings along a road frontage without accompanying development to the rear.
17. The Appellant considered that the appeal site was a gap site, falling within an otherwise substantial and continuously built up frontage comprising the new-build 1.5 storey, No. 14, No. 8 and No. 6 Sandy Brae. The Appellant considered that the gap formed by the intersecting laneway serving Nos. 10 and 12 did not break up the frontage of development. Whilst Policy CTY8 does not refer to adjoining roads or mention the word "break" in respect of assessing frontages, the exceptional test refers to a small gap site within an otherwise substantial and *continuously* (my emphasis) built up frontage. It follows that where there is a feature that interrupts or ends a line of buildings along a frontage, then any development beyond that cannot be considered to lie within that same frontage. The intersecting laneway, notwithstanding its single vehicle width, separates the appeal site from No. 14 Sandy Brae. This, along with the 45 degree bend in the Sandy Brae laneway at the point of intersection with the other laneway, breaks the development into two frontages, both physically and visually. On the western side of the intersecting laneway lie the 1.5 storey new build, its garage and the appeal site itself. On the eastern side of the intersecting laneway lie Nos. 14, 8 and 6 Sandy Brae.
 18. In this case, the appeal development would be reliant on buildings along two frontages, albeit along the same laneway. Whilst visually, travelling south-west towards the site, the angle of the intersecting laneway and disposition of No 14 and the site are such that one might think it was a single frontage until reaching the start of the curtilage of No. 14 itself, the same is not the case when travelling the opposite direction. When travelling north-east on the laneway past the 1.5 storey new build towards the site, the topography and alignment of the Sandy Brae laneway and intersection with the other laneway render the two frontages distinct from one another. Whilst the Appellant made reference to guidance illustrations within the Building on Tradition design guide which show acceptable infill sites where there are laneways punctuating the frontage, assessment must be made against the actual site context itself and a judgement made on that basis. For the reasons given above I am not persuaded that the existing buildings constitute an otherwise substantial and continuously built up frontage for the purposes of the policy.
 19. The Appellant referred to a permission granted in the Armagh area (ref. LA08/2017/0384/O) where a laneway punctuated the frontage, but permission was nevertheless granted. From examination of the submitted information, the disposition of existing buildings and plots in relation to that site and the laneway in question differed from the appeal before me. That decision would not justify the approval of the appeal development and in any event, each application must be assessed on its own merits.
 20. Whilst a maximum of two dwellings with plot widths similar to the existing buildings along Sandy Brae could be accommodated within the site, for the reasons already given above, the appeal site is not a small gap site sufficient only to accommodate up to a maximum of two dwellings within an otherwise substantial and continuously built up frontage. The appeal development does not therefore meet the exceptional test within Policy CTY8. Additionally, given my conclusions below relating to ribbon development and consequent impacts on rural character, the appeal development would not fully meet the other planning and environmental requirements element of Policy CTY8.

21. The Council considered that development of the site would create ribbon development along Sandy Brae, comprised of Nos. 128 and 130 Tullyframe Road and the new build 1.5 storey. I consider this to be a flawed analysis as the physical and visual disposition of Nos. 128 and 130 are such that they would not read with the new build 1.5 or appeal site as part of a ribbon of development. However, without prejudice to my conclusions above on the exceptional test within Policy CTY8, when travelling either direction along Sandy Brae towards the appeal site, the new build and its garage, both of which lie on the laneway frontage, would read with the appeal dwelling as a ribbon of development. For the reasons given above the appeal development would be contrary to Policy CTY8 of PPS21. The Council's third reason for refusal is therefore sustained to the extent specified.
22. 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. I am not persuaded by the Council that a dwelling sited in the lower, lane-side area, in line with that shown on the Appellant's illustrative layout, would in itself appear visually prominent within the landscape, provided the existing stone boundaries were retained. I accept the Appellant's suggestion that the frontage wall could be relocated behind the splays with relative ease. However, prominence is only one element of integration, with the appeal development still heavily reliant on new landscaping for enclosure, even though the number of in situ boundaries exceeds that set out in Building on Tradition. The stone walls are insufficient to provide the necessary enclosure given the width and topography of the site, even though a dwelling on the site would not read on the skyline. The appeal development would still not adequately integrate into the landscape given the site's lack of enclosure, which in this case is a critical factor. The appeal development does not meet Policy CTY13 of PPS21 read as a whole. The fourth reason is sustained insofar as specified.
23. 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. For the reason already outlined above, the appeal dwelling itself would not appear unduly prominent in the landscape given its position on the lowest part of the host field and the backdrop to the north / north-west. However, given my conclusions in respect of the creation of ribbon development and the alteration to the character of the existing cluster, the appeal development would nonetheless result in suburban style build-up. The appeal development would be contrary to Policy CTY14 read as a whole. The Council's fifth reason for refusal is sustained insofar as specified.
24. For the reasons given above the development would not comply with prevailing regional planning policy, as well as resulting in harm to rural character, these matters being interests of acknowledged importance. There are no overriding reasons why the appeal development is essential and could not be located in a settlement. The appeal development is contrary to Policy CTY1 of PPS21 and the related provisions of the SPPS. The first reason for refusal is sustained.

25. The Council's reasons for refusal have been sustained to the extent specified and are determining. The appeal must fail.

This decision relates to the 1:2500 scale Site Location Plan dated January 2017 and numbered 01 Rev 01, submitted with the application.

COMMISSIONER MARK WATSON

List of Appearances

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

Appellant:- Mr C O'Callaghan (O'Callaghan Planning)
Mr & Mrs C & K Sloan

List of Documents

Planning Authority:- 'A' Statement of Case & Appendix (NM&D DC)

Appellant:- 'B' Statement of Case & Appendices (O'Callaghan Planning)

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| 2/1/18 | Cllr S Burns | ----- --- | Enquiry | M McIlhone | Call answered | 2/1/18 |
| " " | C McGrath MLA | Bryansford Road, Newcastle | Request for e mail sent 2016 | A McAlarney | Direct e mail | 8/1/18 |
| 4/1/18 | Cllr G Fitzpatrick | ----- --- | Query EIA determination letter | G Kerr | Direct e mail | 5/1/18 |
| 5/1/18 | Cllr G Fitzpatrick | ----- ---- | Will PAC notify objector of appeal? | G Kerr | Direct e mail | 5/1/18 |
| 5/1/18 | Cllr D Taylor | LA07/2017/1738/F | Update required | S Trainor | Call answered | 5/1/18 |
| 8/1/18 | Cllr D Curran | ----- --- | Update requested | A McAlarney | Call transferred | 8/1/18 |
| " " | Elizabeth for J McNulty MLA | LA07/2015/1102 | Update requested | A Davidson - G Kerr | E mail sent | 8/1/18 & 15/1/18 |
| " " | Cllr R Burgess | LA07/2017/1353/ O & LA07/2017/1095/F | Updates requested | A McAlarney | Call transferred | 8/1/18 |
| " " | Cllr R Burgess | LA07/2017/0398/F | Updates requested | A McAlarney | Call transferred | 8/1/18 |
| " " | Yvonne for C Hazzard MLA | LA07/2016/0448/ O | Update requested | A McAlarney | Direct e mail | 9/1/18 |
| 9/1/18 | Cllr P Byrne | ----- --- | Query | A Davidson | E mail sent | 10/1/18 |
| 10/11/18 | C McGrath MLA | Kilclief GAA | Update requested | A McAlarney | Direct e mail | 11/1/18 |
| 11/1/18 | Cllr McMahan | LA07/2016/1564/F | Update requested | P Rooney | E mail sent | |
| 13/1/18 | Cllr D McAteer | LA07/2017/0546/F & Brian McGivern's application | Updates requested | P Rooney - A McAlarney | Direct e mail | 15/1/18 & 18/1/18 |
| 15/1/18 | Cllr G Fitzpatrick | LA07/2017/0743/F | When will application appear on Committee | C McAteer - A Davidson | Direct e mail | |

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| | | | Schedule? | | | |
| " " | Cllr G Fitzpatrick | LA07/2017/1248/O | Has Planning Decision issued? | L O'Hare/G Kerr | Direct e mail | |
| 16/1/18 | Cllr L Devlin | LA07/2017/1044 & Amenity Centre, Newcastle | Updates requested | A McAlarney | Call transferred | 16/1/18 |
| " " | Cllr L Devlin for C McGrath MLA | ----- -- | Meeting request | A McKay | E mail sent | 26/1/18 |
| 17/1/17 | Cllr C Enwright | Saul Rd Developments | Conditions not implemented | D Watson | E mail sent | |
| 18/1/18 | Cllr D Curran | ----- - | Query | A McAlarney | Call transferred | 18/1/18 |
| " " | Cllr L Devlin | LA07/2018/0001 | Query | A McAlarney | E mail sent | 8/2/18 |
| 22/1/18 | Cllr L Devlin | ----- --- | To set up meeting with C McGrath | A McKay | E mail sent | 26/1/18 |
| 23/1/18 | Cllr L Devlin | ----- --- | Queries | A McAlarney & A McKay | Call transferred to A McAlarney | 23/1/18 |
| " " | Cllr G Fitzpatrick | LA07/2017/1248/O | Update requested | L O'Hare | Direct e mail | |
| 24/1/18 | Cllr J Macauley | LA07/2017/1738/F | Has Decision notice issued? | M McIlhone | Telephone call | 24/1/18 |
| " " | Cllr G Stokes | 56 Ashgrove Road, Newry | Update requested | A McKay-J McParland | Direct e mail | 29/1/18 |
| 25/1/18 | Cllr L Devlin | ----- --- | To set up meeting with C McGrath | A McKay | E mail sent | 26/1/18 |
| 25/1/18 | Cllr L Devlin | ----- --- | Re Newcastle Road Dundrum | D Watson | E mail sent | 8/2/18 |
| " " | Cllr D Curran | ----- --- | Query | A McAlarney | Call transferred | 25/1/18 |

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| 26/1/18 | Cllr D Taylor | ----- --- | Update requested | A Davidson | E mail sent | 26/1/18 |
| 29/1/18 | Cllr R Burgess | Crossgar Memorial development | Information requested | A McAlarney | Call transferred | 29/1/18 |
| 30/1/18 | J McNulty MLA | ----- --- | Query | A Davidson | E mail sent | 5/2/18 |
| " " | Cllr H Reilly | LA07/2017/1715/F | Update requested | G Kerr | Direct e mail | 31/1/18 |
| " " | Cllr T Andrews | LA07/2016/0606/F | Query | A McAlarney | Direct e mail | 9/2/18 |
| 2/2/18 | Cllr J Macauley | LA07/2017/0418/CA | Information required | D Watson | E mail sent | |
| 5/2/18 | J McNulty MLA | ----- --- | Query | P Rooney | E mail sent | 5/2/18 |
| " " | Cllr C Enwright | Kilclief Community Park | PAD requested | A McAlarney | Direct e mail | 6/2/18 |
| 6/2/18 | C McGrath MLA | LA07/2017/0024/F | Update requested | A McAlarney | Direct e mail | 6/2/18 |
| " " | Cllr S Burns | Bryansford chapel | Discuss application | A McAlarney | E mail sent | 6/2/18 |
| " " | Cllr J Tinsley | LA07/2017/1170/F | Update | A McAlarney | E mail sent | |
| " " | Cllr L Kimmins | Banbridge, Newry & Mourne Area Plan | Requested link to document | A Hay | E mail via Llam Hannaway | 6/2/18 |
| 6/2/18 | Cllr C Enwright | Kilclief Community Park | Meeting date requested | A McAlarney | Direct e mail | 8/2/18 |
| 7/2/18 | J McNulty MLA | ----- -- | Query | P Rooney/A Davidson | E mail sent | 8/2/18 |
| 8/2/18 | Cllr S Doran | LA07/2018/0168/F | Request for application to go to Planning Committee | J McParland | E mail sent | 8/2/18 |
| " " | Cllr J Tinsley | ----- --- | Update | A McAlarney | E mail sent | |
| " " | Cllr W Walker | ----- --- | Request for e mail | A McAlarney | Direct e mail | 8/2/18 |

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| | | --- | addresses | | | |
| " " | Cllr L Devlin | LA07/2018/0168/F | Information requested | J McParland | E mail sent | 8/2/18 |
| 9/2/18 | Brenda for S Bradley MLA | LA07/2016/1572/O | Update requested | J McParland | E mail sent | 12/2/18 |
| 9/2/18 | William Irwin | LA07/2017/1896/F | Update requested | S Trainor | Call answered | 9/2/18 |
| 12/2/18 | Cllr L Devlin | Kilclief Gaelic Club | Update requested | A McAlarney | Call transferred | 12/2/18 |
| " " | C McGrath MLA | LA07/2016/0597 and LA07/2017/1521 | Meeting requested | A McAlarney | Direct e mail | 13/2/18 |
| " " | Cllr H Harvey | LA07/2017/0290/O & LA07/2017/1551/O | Updates requested | A McAlarney | Direct e mail | 13/2/18 |
| 13/2/18 | Sinead Bradleys Office | LA07/2018/0137/F | _____ | P Rooney | Call transferred | 13/2/18 |
| " " | Cllr G Sharvin | R/2009/1063/F | Meeting request | A McAlarney | Direct e mail | 20/3/18 |
| 15/2/18 | Cllr L Devlin | LA07/2017/1669 | Update requested | J McParland | Call transferred | 15/2/18 |
| 16/2/18 | Cllr S Doran | LA07/2017/1326/F | Request for call back | A McAlarney | Direct e mail | 21/2/18 |
| " " | Cllr D McAteer | LA07/2017/1069/F | Update requested | A McKay & M Ward | Direct e mail | 27/2/18 |
| 20/2/18 | Cllr H Reilly | LA07/2015/0248/F | Update requested | G Kerr | Direct e mail | 21/2/18 |
| " " | Cllr G Hanna | LA07/2018/0151/F | Update requested | A McKay- J McParland | Direct e mail | 26/2/18 |
| 21/2/18 | Cllr W Clarke | ----- | Enquiry | A McAlarney | Call transferred | 21/2/18 |
| " " | Cllr H Reilly | LA07/2015/0248/F | Referral to Committee | G Kerr | Direct e mail | 21/2/18 |
| " " | C McGrath MLA | LA07/2017/0546/F | Is a meeting required with Roads NI? | A McAlarney | E mail sent | 22/2/18 |

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| 22/2/18 | Cllr L Devlin | LA07/2017/0546 | Update requested | A McKay | E mail sent | 22/2/18 |
| " " | Cllr G Wilson | LA07/2017/1636/F | Update requested | J McParland | E mail sent | 23/2/18 |
| " " | Cllr P Brown | LA07/2017/1648/F | Update requested | A McAlarney | Call transferred | 22/2/18 & 26/2/18 |
| 22/2/18 | C McGrath MLA | LA07/2018/0052/F | Request for meeting | A McAlarney | Direct e mail | 22/2/18 |
| 23/2/18 | J McNulty MLA | LA07/2015/0150/F | Update requested | P Rooney | Call transferred | 23/2/18 |
| 26/2/18 | Cllr L Devlin | LA07/2017/1044/F | Update requested | A McAlarney | E mail sent | 26/2/18 |
| " " | Cllr H Harvey | LA07/2016/1211/F | Potential enforcement issue | A McAlarney | Direct e mail | 26/2/18 |
| " " | Cllr L Devlin | LA07/2018/0121/F | Update requested | A McAlarney | Direct e mail | 26/2/18 |
| " " | C McGrath MLA | LA07/2016/0865/F | Update requested | A McAlarney | Direct e mail | 26/2/18 |
| " " | Cllr T Andrews | LA07/2018/0096/F | Update requested | A McAlarney | Direct e mail | 27/2/18 |
| " " | C McGrath MLA | LA07/2017/1044/F & LA07/2017/1066/DCA | Update requested | A McAlarney | Direct e mail | 27/2/18 |
| " " | Cllr G Fitzpatrick | LA07/2018/0038/F | Update requested | J McParland/A McAlarney | Direct e mails | 27/2/18 & 2/3/18 |
| 27/2/18 | C McGrath MLA | LA07/2017/0078 & LA07/2017/0072 | Update requested | A McAlarney | Direct e mail | 27/2/18 |
| " " | Cllr W Clarke | Newcastle to rear of Seaweed Baths | Update requested | A McAlarney | Direct e mail | 27/2/18 |
| " " | Cllr L Kimmons | P/2013/0242/F | Update requested | A McKay | Direct e mail | 27/2/18 |
| 28/2/18 | C Hazzard MP | R/2005/1097/F | Update requested | A McAlarney | Direct e mail | 28/2/18 |
| " " | Cllr C Enwright | Kilclief Village's community park | Advice on Planning Application | A McAlarney | Direct e mail | 28/2/18 |
| " " | Cllr C Enwright | Kilclief Village's | Further query | A McAlarney | Direct e mail | 28/2/18 |

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| | | community park | | | | |
| 1/3/18 | C McGrath MLA | R/2014/0305/F | Query | A McAlarney | Direct e mail | 2/3/18 |
| 2/3/18 | Cllr W Clarke | LA07/2017/1066/DCA | Update requested | A McAlarney | Direct e mail | 2/3/18 |
| 5/3/18 | Cllr R Burgess | 1 or 2 The Mill, Saintfield | Update requested | A McAlarney | Call transferred | 2/3/18 |
| 6/3/18 | Cllr P Brown | LA07/2017/1648/F | Query re meeting | A McAlarney | E mail sent/Direct e mail | 6/3/18 |
| 6/3/18 | Cllr W Walker | R/2014/0676/F | Update requested | A McAlarney | Direct e mail | 6/3/18 |
| " " | Cllr J Tinsley | LA07/2017/1170/F | Update requested | A McAlarney | Direct e mail | 8/3/18 |
| 7/3/18 | Cllr M Murnin | LA07/2018/0063/F | Update requested | A McAlarney | Direct contact | 7/3/18 |
| 8/3/18 | William Irwin MLA | LA07/2017/0309/F | _____ | J McParland | Call transferred | 8/3/18 |
| " " | Cllr W Walker | ----- --- | Query re Social Housing appl. Ballynahinch | A McAlarney | Call transferred | 8/3/18 |
| " " | C McGrath MLA | LA07/2018/0121/F | Update requested | A McAlarney | Direct e mail | 9/3/18 |
| 9/3/18 | Cllr W Walker | ----- -- | ----- --- | A McAlarney | Call transferred | 9/3/18 |
| 11/3/18 | C McGrath MLA | R/2014/0305/F | Queries re light flicker and noise | A McAlarney | Direct e mail | 20/3/18 |
| 12/3/18 | Cllr G Craig | Choice Housing Dev. Ballynahinch | Update requested | A McAlarney | Call transferred | 12/3/18 |
| " " | W Irwin MLA | ----- --- | Query | J McParland | E mail sent | 12/3/18 |
| " " | Cllr R Mulgrew | ----- ---- | Query | M McIlhone | Telephone call | 12/3/18 |
| " " | W Irwin MLA | ----- --- | Query | J McParland | E mail sent | 12/3/18 |
| " " | Cllr L Devlin | LA07/2018/0052/F | Meeting request | A McAlarney | Direct e mail | 12/3/18 |

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| " " | C McGrath MLA | LA07/2017/0024/F | Letters from Objector | A McAlarney | Direct e mail | 15/3/18 |
| " " | Cllr T Hearty | P/2009/0002/O | Query re Farm dwelling | A Davidson | Direct e mail | 15/3/18 |
| 13/3/18 | C Hazzard MP | R/2014/0079/F | More time requested | L Hannaway-A McKay | Direct e mail | 13/3/18 |
| 14/3/18 | J Shannon MP | Down High School | Update requested | A McAlarney | Direct e mail | 14/3/18 |
| 15/3/18 | Una from Sinn Fein office, Downpatrick | ----- - | Query re: a closed enforcement case | D Watson | E mail sent | |
| " " | C McGrath MLA | LA07/2017/0937/F | Meeting request | A McAlarney | Direct e mail | 15/3/18 |
| 20/3/18 | David Taylor | | | J McParland | Transferred | 20/3/18 |
| 20/3/18 | C McGrath MLA | | Updates from meeting on 9/2/18 | A McKay | Emailed | 20/3/18 |
| " " | C McGrath MLA | 154 Loughinisland Road, Annacloy | Update requested | A McAlarney | Direct e mail | 21/3/18 |
| 21/3/2018 | Una from Sinn Fein office, Downpatrick | LA07/2015/0512 | Phoned 3 times | A McAlarney | e-mailed | |
| 21/3/18 | Cllr W Walker | ----- | Meeting request | A McAlarney | Direct e mail | 21/3/18 |
| 22/3/18 | Cllr L Devlin | Temp Structure | What form is req'd? | A McAlarney | Direct e mail | 23/3/18 |
| 23/03/18 | Cllr D Curran | | Re POP in Burrendale | S Trainor | Call answered | 23/3/18 |
| 23/3/18 | Cllr G Stokes | LA07/2018/0404/F | Re complaints about noise | G Kerr | Direct e mail | 23/3/18 |
| 28/3/18 | Cllr P Brown | LA07/2018/0418 | | S Trainor | Call answered | 28/3/18 |
| 29/3/18 | Cllr O McMahan | LA07/2015/0109/F | Objections | G Kerr | Direct e mail | 4/4/18 |
| 30/3/18 | Cllr D McAteer | | | A Davidson | Transferred | 30/3/18 |
| " " | Cllr W Walker | Coulter Homes | Request for meeting | A McAlarney | Direct e mail | 30/3/18 |

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