



September 20th, 2018

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 26th September 2018** at **10:00 am** in the **Boardroom, Monaghan Row, Newry.**

The Members of the Planning Committee are:-

Chair:	Councillor M Larkin
Deputy Chair:	Councillor D McAteer
Members:	
Councillor C Casey	Councillor W Clarke
Councillor G Craig	Councillor L Devlin
Councillor G Hanna	Councillor V Harte
Councillor K Loughran	Councillor J Macauley
Councillor M Murnin	Councillor M Ruane

Agenda

1.0 Apologies.

- Apologies from Councillor Devlin and Councillor Harte


2.0 Declarations of Interest.

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

- Item 8 - LA07/2016/1632/0 - Jason Fegan - proposed farm dwelling - lands 45m NW of No. 12 Upper Knockbarragh Road, Warrenpoint - Councillors Harte, Loughran and McAteer were not present for the first presentation on 6 June 2018 and Councillor Murnin was not present for the site visit on 5 June 2018. **Councillors Harte, Loughran, McAteer and Murnin cannot therefore take part in the discussion/decision on this application.**
- Item 10 - LA07/2017/0290/0 - Mr and Mrs McMurray - single storey 200sqm house with outbuildings - 110m south of 52 Carsonstown Road, Saintfield. **Councillor Murnin was not present for the first presentation on 11 April 2018 and cannot therefore take part in the discussion/decision on this application.**
- Item 13 - R/2013/0375/F - Mary O'Prey - proposed house and garage on the farm for a family member - lands 40m NW of 9 Wateresk Road, Dundrum - Councillor W Clarke and Councillor L Devlin declared an interest in this application at the first presentation of this application on 8 June 2016 and did not take part in the discussion on the application. Councillor Harte and Councillor Ruane were not present at the Planning meeting on 8 June 2016. **Councillors Clarke, Devlin, Ruane and Harte cannot therefore take part in the discussion/decision on this application.**

Minutes for Confirmation

4.0 Minutes of Planning Committee Meeting held on Wednesday 29 August 2018. (Attached).

 *Planning Minutes - 29 August 2018.pdf*

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For Discussion/Decision

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

 *Addendum list - 26-09-2018.pdf*

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6.0 LA07/2017/1424/F - Newry, Mourne and Down District Council - alterations to the approved new leisure centre in Downpatrick including changes to site levels along ramped access from Ballyduggan Road, provision of external steps from building, revisions to car parking layout and relocation of NIE substation (amended description/plans received). (Case Officer report attached).

Rec: APPROVAL

- Addendum list

[LA07-2017-1424-F NMDDC.pdf](#)

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7.0 LA07/2018/1114/F - Newry, Mourne and Down District Council - prefabricated single storey building for use by community group for meetings and activities. Existing bitmac surface is for access route and on-site parking. Grass areas to be retained for outdoor open space, and other associated community activities. (Case Officer report attached).

Rec: APPROVAL

- Addendum list

[LA07-2018-1114-F NMDDC.pdf](#)

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8.0 LA07/2016/1632/0 - Jason Fegan - proposed farm dwelling - lands 45m NW of No. 12 Upper Knockbarragh Road, Warrenpoint. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Colin D'Alton, agent; Jason Fegan, applicant and Eoin Morgan, Planning Consultant, in support of the application. **(Submission attached).**

[LA07-2016-1632-0 Jason Fegan.pdf](#)

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[Item 8 - LA07-2016-1632-0 \(Jason Fegan\).pdf](#)

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[Item 8 - Jason Fegan \(2\).pdf](#)

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9.0 LA07/2016/0865/F - Mr and Mrs Dean Brown - proposed farm dwelling and domestic garage - 60m SE of No. 34 Wood Road, Castlewellan. (Case Officer report attached).

Rec: REFUSAL

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

📄 *LA07-2016-0865-F Mr and Mr Dean Brown.pdf*

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10.0 LA07/2017/0290/0 - Mr and Mrs McMurray - single storey 200sqm house with outbuildings garage and stores - 110m south of No. 52 Carsonstown Road, Saintfield. (Case Officer report attached).

Rec: REFUSAL

- A written statement has been submitted by the agent, Stephen Douglas, who has not requested speaking rights but has asked that the information be circulated to Members in advance of the meeting. **(Written submission attached).**

📄 *LA07-2017-0290-O Mr and Mrs McMurray.pdf*

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📄 *Item 10 - LA07-2017-0290-0 (Mr & Mrs McMurray).pdf*

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11.0 LA07/2017/1256/0 - Mr Trevor Mawhinney - dwelling on a farm on lands between No. 205-209 Belfast Road, Ballynahinch. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Seamus Fay, agent and Trevor Mawhinney, applicant, in support of the application. **(Submission attached).**

📄 *LA07-2017-1256-O Trevor Mawhinney.pdf*

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📄 *Item 11 - LA07-2017-1256-0 (Trevor Mawhinney).pdf*

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12.0 R/2018/0375/F - Mary O'Prey - proposed house and garage on the farm for a family member - lands 40 NW of 9 Wateresk Road, Dundrum. (Case Officer report attached).

Rec: REFUSAL

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

📄 *R-2013-0375-F Mrs Mary Prey.pdf*

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📄 *Item 12 - R-2013-0375-F (Mary O'Prey).pdf*

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13.0 LA07/2016/0983/F - Kathleen Dobbin - replacement dwelling (amended plans) - 8 Grove Road, Annalong. (Case Officer report attached).

Rec: APPROVAL

- Addendum list

[LA07-2016-0983-F Kathleen Dobbin.pdf](#)

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14.0 LA07/2017/0449/F - Tony Cunningham - proposed 2 No. dwellings (further amendments) - vacant ground between Dromore Heights and Cloughmore View and east of No. 4 Dromore Heights, Upper Dromore Road, Warrenpoint. (Case Officer report attached).

Rec: REFUSAL

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

[LA07-2017-0449-F Mr Tony Cunningham.pdf](#)

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[Item 14 - LA07-2017-0449-F \(Tony Cunningham\).pdf](#)

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15.0 LA07/2017/1619/F - Thomas Grant - proposed dog kennel including office and storage - NW of 48 Leode Road, Hilltown, Newry. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Neil Byrne, agent, and Thomas Grant, applicant, in support of the application. **(Submission attached).**

[LA07-2017-1619-F Thomas Grant.pdf](#)

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[Item 15 - LA07-2017-1619-F \(Thomas Grant\).pdf](#)

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16.0 LA07/2018/0159/F - Patrick Murphy - new dwelling house and garage on farm - land adjacent to and immediately south of 19 Ryan Road, Mayobridge. (Case Officer report attached).

Rec: REFUSAL

- This application has been withdrawn from the planning process by the agent in a withdrawal letter dated 14 September 2018.

[LA07-2018-0159-F Patrick Murphy.pdf](#)

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17.0 LA07/2018/0401/0 - Mr and Mrs Colm Cunningham - proposed site for infill dwelling and domestic garage (amended address) 60m south of No. 24 School Road, Ballymartin, Kikeel. (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).**

[LA07-2018-0401-O Mr and Mrs Colm Cunningham.pdf](#)

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[Item 17 - LA0720180401O Rebuttal for Mr and Mrs Colm Cunningham.pdf](#)

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18.0 LA07/2018/0698/0 - Niamh D'Arcy - dwelling house (infill) - adjacent to and west of No. 4 Ballykeel Road, Mullaghbawn, Newry. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Seamus P Malone, agent, and Niamh D'Arcy, applicant, in support of the application. **(Submission attached).**

[LA07-2018-0698-O Niamh D'Arcy.pdf](#)

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[Item 18 - LA07-2018-0698-0 \(Niamh D'Arcy\).pdf](#)

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19.0 P/2013/0242/F - MJM Group Ltd - Proposed residential housing development (see description below) - Lands at Watson Road/Dorans Hill Newry, including lands to the east of Watsons Road. (Case Officer report attached).

Proposal Description: 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 distributor road, planting of acoustic barrier along distributor road, proposed landscaping, open space, car parking, site and access works. (Amended plans/ scheme including a reduction in the site area boundary, amendments to the garden areas of proposed site numbers 78-83 and amended landscaping details along the southernmost boundary of the site/ west of Watsons Road).

Rec: APPROVAL

- A request for speaking rights has been received from Carson McDowell LLP on behalf of their client and their consultant Mr Richard O'Toole in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from Deborah Loughran, agent, and Brian McConville, applicant, in support of the application. **(Submission**

attached).

 <i>P-2013-0242-F MJM Group Ltd.pdf</i>	<i>Page 179</i>
 <i>Item 19 - P-2013-0242-F (MJM Group).pdf</i>	<i>Page 206</i>
 <i>Item 19 - P-2013-0242-F OBJECTION (MJM Group Ltd).pdf</i>	<i>Page 207</i>

For Noting

20.0 Historic Tracking Sheet. (Attached).

 <i>Planning HISTORIC TRACKING SHEET - UPDATED 29.08.2018.pdf</i>	<i>Page 211</i>
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**21.0 August 2018 Planning Committee Performance Report.
(Attached).**

 <i>AUGUST 2018 Planning Committee Performance Report.pdf</i>	<i>Page 217</i>
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**22.0 Record of meetings between Planning Officers and Public
Representatives. (Attached).**

 <i>26 September 2018 Committee report.pdf</i>	<i>Page 223</i>
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23.0 August 2018 Appeals and Decisions. (Attached).

 <i>Planning Appeals and Decisions August 2018.pdf</i>	<i>Page 224</i>
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NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry Mourne and Down District Council held on Wednesday 29 August 2018 at 10.00am in the Boardroom, District Council Offices, Monaghan Row, Newry

Chairperson: Councillor M Larkin

Deputy Chairperson: Councillor D McAteer

In attendance: **(Committee Members)**

Councillor C Casey
 Councillor G Craig
 Councillor G Hanna
 Councillor J Macauley
 Councillor K Loughran
 Councillor M Murnin
 Councillor M Ruane

(Officials)

Ms M Ward	Director- Enterprise, Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Ms A McAlarney	Senior Planning Officer
Ms J McParland	Senior Planning Officer
Mr A Davidson	Senior Planning Officer
Ms N Largey	Legal Advisor
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer
Mrs E McParland	Democratic Services Manager

P/074/2018: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillors Clarke, Devlin and Harte.

P/075/2018: DECLARATIONS OF INTEREST

There were no Declarations of Interest received.

P/076/2018: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 19 – MEMBER TO BE PRESENT FOR ENTIRE ITEM

- Item number 6 – LA07/2017/0821/O – Mr C Kane – Magherahamlet Road, Ballynahinch –Councillor Casey was not in attendance for the first presentation on 7 February 2018** and did not therefore take part in the discussion/decision on this application - Councillor Clarke was not present at the meeting.

- **Item number 15 – LA07/2017/1721/F – Millvale Services – Councillors Larkin was not in attendance for the first presentation on 9 May 2018** and did not therefore take part in the discussion/decision on this application - Councillor Harte was not present at the meeting.

MINUTES FOR CONFIRMATION

P/077/2018: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 1 AUGUST 2018

Read: Minutes of Planning Committee Meeting held on Wednesday 1 August 2018. **(Copy circulated)**

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Murnin it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 1 August 2018 as a true and accurate record.

FOR DISCUSSION/DECISION

P/078/2018: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 29 August 2018. **(Copy circulated)**

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Craig it was agreed to approve the Officer recommendation in respect of the following Application listed on the Addendum List for Wednesday 29 August 2018:-

- **Item 18 – LA07/2018/0693/F – Newry, Mourne and Down District Council – New community centre and extended car park – Land approximately 11m NE of 11 Kittys Road, Kilkeel. **APPROVAL****

DEVELOPMENT MANAGEMENT – PLANNING APPLICATIONS FOR DETERMINATION

P/079/2018: PLANNING APPLICATIONS FOR DETERMINATION

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

- **Item 10 – LA07/2018/0348/F** Mark McNally – proposed dwelling and double garage – site between 66 and 68 The Craig Road, Downpatrick – **removed from the planning process by the agent.**
- **Item 12 – LA07/2018/0401/0 –** Mr and Mrs Colm Cunningham – proposed site for infill dwelling and domestic garage (amended address)

- 60m south of No. 24 School Road, Ballymartin, Kilkeel – **removed from the schedule at the request of Councillor Hanna for presentation at the next Planning Committee Meeting**
- **Item 13 – LA07/2017/0449/F** – Mr Tony Cunningham - Proposed 2 No. Dwellings (further amendments since previous letter of 30 April 2018) - Vacant ground between Dromore Heights and Cloughmore View and East of No. 4 Dromore Heights, Upper Dromore Road, Warrenpoint – **removed from the schedule at the request of Councillor McAteer for presentation at the next Planning Committee Meeting.**
- **Item 17 – LA07/2018/0536/F** - Casey Supermarket Ltd. - Proposed change of use from B4 class units to provide 4 No. 2 bedroom apartments along with ancillary and associated works - 8 Newry Road, Crossmaglen – **removed from the schedule at the request of the Planning Department in order to allow the agent to provide information/plans to address the consultation response from the Environmental Health Department.**

The following applications were determined by the Committee:-

(10.25am – Councillor Casey withdrew from the meeting)

(1) LA07/2017/0821/0821/O – Mr C Kane

Location:

123 Magherahamlet Road, Moneywabane, Ballynahinch

Proposal:

Proposed off site replacement dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Sam Hawthorne, Agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Ms A McAlarney, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site. She advised Members that the Agent had included additional information along with his speaking rights submission which had not been assessed by Planning Officials and therefore did not form the basis of the recommendation that had been reached by Planning Officials.

Discussion took place regarding the receipt of the late information and Ms Largey advised it was a decision for the Committee, according to its planning protocol, whether to consider the late information.

Mr McKay referred to the late information received which related to a proposed planning application for an additional two poultry sheds and said this was a critical issue that needed careful consideration. He continued, saying it was important that the Agent and Applicant were aware that the proposed planning application for the two additional poultry sheds was a much wider issue than the planning application before the Committee today and would potentially require an environmental statement.

Councillor Murnin proposed and Councillor Hanna seconded to defer Planning Application LA07/2017/0821/0821/O to allow for further discussions to take place between the Agent/Applicant and Planning Officials.

AGREED: **On the proposal of Councillor Murnin, seconded by Councillor Hanna it was unanimously agreed to defer Planning Application LA07/2017/0821/O to allow for further discussions to take place with Agent / Applicant and Planning Officials before coming back to Committee.**

(Councillor Casey re-joined the meeting 10.55am)

(2) LA07/2017/1704/O – Ms Claire Ferris

Location:

Between 16 and 20 Lough Road, Crossgar

Proposal:

Proposed 2 no. dwellings on in-fill site under Policy CTY8

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Gerry Tumelty, agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Ms A McAlarney, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Discussion took place regarding whether the infill site could accommodate 2 dwellings and Mr Tumelty said the total site frontage measured 66m which would allow 33m per dwelling. He said this would have a similar frontage as the neighbouring No. 16 Lough Road.

Ms McAlarney said the recommendation arising from the PAC had been for one dwelling.

Mr McKay said that more than one dwelling would contribute to ribbon development and the issue for the Committee was to decide if the gap size was capable of accommodating two dwellings whilst maintaining the prevailing character of the surrounding area.

Mr Tumelty asked for clarity on whether Planning Officials measured from building to building or measured the frontage when determining the suitability of an in fill site.

Ms McAlarney replied that Planning Officials always considered the measurement from building to building, however neighbouring plots would have to be respected and, in this case, it did not respect the existing pattern of development. Additionally, she said, two letters of objection had been received.

Councillor Hanna proposed that a site visit be made in order for the Committee to assess the proposed in fill site in more detail. Councillor Craig seconded the proposal.

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

FOR: 5
AGAINST: 2
ABSTENTIONS: 1

The proposal was declared 'carried'.

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Craig it was agreed to defer Planning Application LA07/2017/1704/O for a site visit to take place in order that Members could assess the site in more detail.

(3) LA07/2018/0220/F – Mr and Mrs H Coulter

Location:

50m SE of 7 Old Saintfield Road, Creevyarnonan, Crossgar

Proposal:

Proposed 2 no. infill dwellings, detached garages and site works

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

David Donaldson, Agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Ms A McAlarney, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site. Ms McAlarney advised Members the Agent had submitted revised plans showing a reduction in height of the proposed dwellings, along with his speaking rights submission, however, Planning Officials had not had time to consider these revised plans when determining their recommendation.

Councillor Craig said he accepted the front of the site was narrow, however he said the site fanned out towards the rear and would lend itself to accommodating two dwellings.

Ms McAlarney replied that whilst she agreed the site did splay towards the rear, Policy CTY8 required the existing development pattern along the frontage in terms of size, scale, siting and plot size be respected and the principle of two infill dwellings had not been accepted on this site. She continued, saying that two letters of objection had been received in relation to Planning Application LA07/2018/0220/F.

Councillor Murnin proposed and Councillor McAteer seconded to accept the Officer's recommendation to issue a refusal in respect of Planning Application LA07/2018/0220/F.

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

FOR: 7
AGAINST: 1
ABSTENTIONS: 1

The proposal was declared 'carried'.

AGREED: On the proposal of Councillor Murnin, seconded by Councillor McAteer it was agreed to issue a refusal in respect of Planning Application LA07/2018/0220/F as per the information and recommendation contained in the Case Officer report presented to Committee.

(Break 11.35 – 11.45)

(4) LA07/2018/0246/O – Mr Michael McConvey

Location:

Opposite 45 Sheepland Road, Ardglass

Proposal:

Proposed dwelling and garage on a farm

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Gerry Tumelty, Agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Ms A McAlarney, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Councillor Murnin asked for clarity on Policy CTY1 and CTY10, Sustainable Development in the Countryside.

Ms Largey replied that planning permission would only be permitted every ten years and with regard to Planning Application LA07/2018/0246/O, it would not be eligible for consideration until March 2019.

AGREED: On the proposal of Councillor Craig, seconded by Councillor Hanna it was unanimously agreed to issue a refusal in respect of Planning Application LA07/2018/0246/O on the basis that a farm dwelling had been approved within the stipulated 10 year period.

(5) LA07/2018/0360/O – Forest Park Developments

Location:

Immediately NW of 4 Sawmill Road, Castlewellan

Proposal:

Infill dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Eoin Morgan, Agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Ms A McAlarney, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Discussion took place surrounding the access to the site with the Agent saying that although it had the appearance of a lane, historically it had once been a road.

Ms McAlarney agreed that at one time the access had been a road, however it would no longer be viewed as such as it just provided access to the builders compound, was gated and didn't go beyond that point.

Councillor Ruane said the builders compound in its current state was an eyesore and if planning permission was refused, would continue to be so.

Mr McKay said it was important that Members adhered to the policy and that removing an eyesore was not a consideration under the policy.

Councillor Craig proposed and Councillor Hanna seconded to accept the Officer's recommendation to issue a refusal in respect of Planning Application LA07/2018/0360/O on the basis that there was not a substantial and continuously built up frontage.

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

FOR:	5
AGAINST:	4
ABSTENTIONS:	0

The proposal was declared 'carried'.

AGREED: On the proposal of Councillor Hanna seconded by Councillor ?? it was agreed to issue a refusal in respect of Planning Application LA07/2018/0360/O on the basis that there was not a substantial and continuously built up frontage.

(6) LA07/2017/0603/O – Christopher Smith**Location:**

Site adjacent to No. 1 John Mitchell Place, Newry

Proposal:

Proposed 2 storey dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Brendan Stareky, Planning Consultant, presented in support of the application detailing and expanding upon a written submission from Neil Mullen that had been circulated to Committee Members.

Ms J McParland, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Discussion took place regarding the exact location of the site and whether it could accommodate the proposed 2 storey dwelling.

Councillor McAteer proposed that a site visit be made in order for the Committee to assess the proposed site in more detail. Councillor Casey seconded the proposal.

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

FOR:	7
AGAINST:	2
ABSTENTIONS:	0

The proposal was declared 'carried'.

AGREED: On the proposal of Councillor McAteer seconded by Councillor Casey it was agreed to defer Planning Application LA07/2017/0603/O for a site visit to take place in order that Members could assess the site in more detail.

(7) LA07/2017/1721/F – Millvale Services

(Councillor Larkin withdrew from the meeting for discussion on this application and the Deputy Chairperson, Councillor McAteer assumed the Chair in the absence of the Chairperson).

Location:

147m SE of 21 Millvale Road, Bessbrook

Proposal:

Proposed parking for neighbouring Millvale Service Station

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Jimmy McAdam, Agent, Douglas Black and Paula Morrow-McDermot were present to support the application..

Speaking rights:

DEA Councillor David Taylor, was present in support of the application.

Mr A Davidson, Senior Planning Officer, said Members needed to be aware that the conditions attached to the planning approval for the supermarket granted in 2006 had not been properly adhered to, in that the supermarket was 100 sq mtrs larger than permitted; the 3 retail units on the site had not been constructed in accordance with planning approval and were approximately 50m larger than permitted; there had been an unauthorised change of use in one of the retail units and instead of the 9 car parking spaces that had been approved, there were a total of 24.

Mr Davidson advised that an Enforcement Team were currently investigating these recent findings. A parking report had been submitted on 21 June 2018 which was currently being considered by Planning Department. Mr Davidson continued, advising Members that in addition to considering this recent information, the recommendation for refusal with regard to Planning Application LA07/2017/1721/F should be upheld for the 5 refusal reasons outlined in the Officer's report.

Mr McAdam said he was unaware of any of the recent information that had been highlighted by Mr Davidson and he and the applicant had attended the meeting to address the health and safety issues as agreed in the recommendations from the Planning Committee Meeting on 9 May 2018.

Councillor Ruane said the Committee would not be in a position to come to a decision today.

AGREED: On the proposal of Councillor Ruane seconded by Councillor Craig it was unanimously agreed to defer Planning Application LA07/2017/1721/F to allow Planning Officers time to consider the information supplied by the agent and also agreed that Planning Officers liaise with the agent and applicant at the very earliest opportunity on enforcement issues raised at the Planning Meeting, in relation to the previous planning approval granted for a supermarket and retail units on the site.

(Councillor Larkin returned to the Chair – 1.05 pm).

(8) LA07/2018/0398/O – Mr Shea McAnulty

Location:

Lands between No. 5 and No. 5A Cons Lane, Newry

Proposal:

Proposed new dwelling and detached garage

Conclusion:

Refusal

Speaking rights:

Damian Morris, agent, presented in support of the application

AGREED: On the proposal of Councillor Hanna seconded by Councillor Murnin 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.

On the proposal of Councillor Murnin, seconded by Councillor Loughran, 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 Murnin seconded by Councillor Loughran it was agreed by 7 votes to 2, to defer planning application LA07/2018/0398/O to allow for further discussions to take place between Planning Officials, Agent and Applicant.

FOR NOTING

P/080/2018: HISTORIC ACTION SHEET

Read: Planning historic action sheet. **(Copy circulated)**

AGREED: It was unanimously agreed to note the Planning historic action sheet

P/081/2018: JULY 2018 PLANNING COMMITTEE PERFORMANCE REPORT

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

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

P/082/20178: RECORD OF MEETINGS BETWEEN PLANNING OFFICERS AND PUBLIC REPRESENTATIVES

Read: Record of meetings between Planning Officers and public representatives. **(Copy circulated)**

AGREED: It was unanimously agreed to note the record of meetings between Planning Officials and public representatives.

P/083/2018: JULY 2018 APPEALS AND DECISIONS

Read: July 2018 appeals and decisions. **(Copy circulated)**

AGREED: It was unanimously agreed to note the July 2018 appeals and decisions.

The Meeting concluded at 1.40pm.

For confirmation at the Planning Committee Meeting to be held on Wednesday 26 September 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 26 September 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 6** – LA07/2017/1424/F - Newry, Mourne and Down District Council - alterations to the approved new leisure centre in Downpatrick including changes to site levels along ramped access from Ballyduggan Road, provision of external steps from building, revisions to car parking layout and relocation of NIE substation (amended description/plans received). **APPROVAL**
- **Item 7** - LA07/2018/1114/F - Newry, Mourne and Down District Council - prefabricated single storey building for use by community group for meetings and activities. Existing bitmac surface is for access route and on-site parking. Grass areas to be retained for outdoor open space, and other associated community activities. **APPROVAL**
- **Item 13** - LA07/2016/0983/F - Kathleen Dobbin - replacement dwelling (amended plans) - 8 Grove Road, Annalong **APPROVAL**

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ITEM NO	7			DATE VALID	15/09/2017
APPLIC NO	LA07/2017/1424/F	Full			
COUNCIL OPINION	APPROVAL				
APPLICANT	Newry Mourne and Down DC Downshire Civic Centre Downshire Estate Ardglass Road Downpatrick BT30 6GQ		AGENT	Kennedy Fitzgerald Architects 3 Eglantine Place Belfast BT9 6EY	
				02890661632	
LOCATION	Down Leisure Centre 114 Market Street Downpatrick				
PROPOSAL	Alterations to site levels along ramped access from Ballyduggan Rd, provision of external steps from building, revisions to car parking layout and relocation of NIE substation. (Amended description/plans received)				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	0	0	0	0	0
			Addresses	Signatures	Addresses
			0	0	0
				Signatures	
				0	0



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1424/F

Date Received: Sept 2017.

Proposal: Full permission is sought for alterations to the approved new leisure centre in Downpatrick, including changes to site levels along ramped access from Ballyduggan Rd, provision of external steps from building, revisions to car parking layout and relocation of NIE substation.

Applicant: Newry, Mourne and Down Council



Location:

The site comprises a portion of the grounds of the existing Down Leisure Centre site, which are located within the settlement development limit of Downpatrick, outside the boundary of the town centre, as identified in the Ards and Down Area Plan 2015.

Site Characteristics & Area Characteristics:

The site outlined in red is irregular in shape and comprises part of the grounds of the Down Leisure Centre site, whereby works are on-going for the construction of a new leisure centre. This site fronts and opens onto Ballyduggan Rd and is bounded by playing fields and petrol filling station and several retail/commercial units to either side.

Site history

A history search has been carried out for the site and surrounds, whereby it is noted there have been several previous permissions on these lands whereby the most relevant of which include:

R/2012/0421/F- New leisure centre - comprising swimming pool, 4 court hall, social space, fitness suite, multi purpose, spa and relaxation area, squash court, ancillary accommodation and external car parking, Full, Approval, 01-05-14, Applicant: DDC

LA07/2017/1426/NMC- Revised internal floor levels to the proposed leisure centre building, Non Material Change, Approved.

LA07/2018/1115/A- Signage, Pending, Applicant: Newry, Mourne and Down Council

LA07/2016/0363/LDE- Temporary access to the existing leisure centre site, for a period of 24 months, Lawful Development Certificate, Approved, 08-06-16, Applicant: Newry, Mourne and Down Council

Representations

None received to date (10-09-18).

Having account the extent of the red line of the application site, neighbour notification has been carried out with a number of properties along Market St in Sept and Dec 2017, and again in June 2018, following receipt of further info, while the case was also advertised in Sept 2018.

Consultees and Assessment

Taking into account the location and constraints of the site and nature of this proposal and also site history, consultation was carried out with Transport NI, Rivers Agency, NIEA, and NIE as part of this application.

It is not considered necessary to seek the comments from any other body to determine this application, which effectively seeks variations to the previous permission.

As outlined above the site is located within the settlement development limit of Downpatrick, whereby permission was recently granted for the construction of a new leisure centre. The existing centre is to be demolished and the land used for parking.

Works are now at an advanced stage whereby this current application seeks amendments to this previous permission.

These amendments include:

- changes to site levels along ramped access from Ballyduggan Rd,
- provision of external steps from building,
- revisions to car parking layout and
- relocation of NIE substation.

It is clear from the history outlined above the principle of a new leisure centre of this size in this location has been established, which was considered to comply with the respective applicable policy context.

Having account the nature of the amendments and constraints of the site and area, consultation was required to be carried out with Transport NI, Rivers Agency, NIEA and NIE. These constraints include the proximity of the site to the road and floodplain.

Following the submission of further information and amended plans TNI, Rivers Agency and NIEA offer no objections to the proposal.

TNI sought clarification regarding the external steps and associated hand rail to ensure it did not impact on the visibility splays from the access, and are now content.

With regards to the consultation with Rivers Agency, the Planning Dept and previous Authority accepted this proposal was an Exception under FLD1 of PPS15 (Replacement of existing building), thus requested and accepted the submission of an updated Flood Risk Assessment (FRA). Rivers Agency have accepted the content and logic of this FRA and have no reason to disagree with it.

NIEA offered no objections to the current proposals.

Despite issuing a consultation to NIE and subsequent reminder and email, no response has been received to date. The Councils Capital Projects Team however have provided a copy of correspondence from NIE who have been in direct contact with NIE directly. This correspondence confirms NIE are aware of this proposal and are happy to provide a connection for it. On this basis it is considered NIE also offer no objections.

As outlined above there are 4 elements to this application.

The changes to the site levels relates to the entrance section only, which slopes up to the building. The remaining levels to the rear are to remain as per the original permission. This entrance portion and associated ramp will now be slightly higher than previously approved. This is a result of the internal floor levels being increased by 0.6m. (This increase in floor levels was approved under a separate Non Material Change application LA07/17/1426 as outlined above). The access ramp also now requires a retaining wall and includes a bank down to the boundary with the commercial/retail units associated with the petrol filling station. Having account the commercial nature of these adjoining units it is considered the amendments proposed will not result in any unacceptable impact.

As the building floor levels have been pushed up 0.6m access steps and associated hand rail are now required for the emergency exit along the return facing Ballyduggan Rd.

Several minor changes are also proposed to the internal car parking arrangement and layout behind the building, with additional spaces now being provided. Several spaces were also displaced to accommodate the relocated NIE sub station.

The final element seeks to relocate the previously approved NIE sub-station to the far side of the site. This was originally located to the rear south side of the building, however is now located towards the rear northern boundary of the site beyond the changing pavilion. This sub station and associated equipment will be housed in 2 small compounds/buildings, the level of which will be well below that of the adjacent residential properties.

All other aspects are to remain as per the original permission.

It is considered the changes proposed are relatively small in scale and will not result in any significant increased or unacceptable impact on the character of the area, townscape or amenity of any adjoining or nearby property, from that previously approved. The use of the adjoining properties is also noted, whereby the front portion of the site adjacent to the access road and ramp solely adjoins commercial properties, while the rear portion adjoins residential properties.

Taking into account the above, Approval is now recommended.

Recommendation: Approval

ITEM NO	12			
APPLIC NO	LA07/2018/1114/F	Full	DATE VALID	11/07/2018
COUNCIL OPINION	APPROVAL			
APPLICANT	Newry Mourne & Down District Council Downshire Civic Centre Ardglass Road Downpatrick BT30 8DG		AGENT	
LOCATION	83 Commons Road Ballykinler		NA	
PROPOSAL	Prefabricated single storey building for use by community group for meetings and activities. Existing bitmac surface is for access route and on-site parking. Grass areas to be retained for outdoor open space, and other associated community activities.			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
			Addresses	Signatures
			0	0
			Addresses	Signatures
			0	0



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/1114/F

Date Received: 11.07.2018

Proposal: The application is for full planning permission for a prefabricated single storey building for use by community group for meetings and activities. Existing bitmac surfaces for access route and on-site parking. Grass areas to be retained for outdoor open space, and other associated community activities.

Location: The application site is located within the settlement limits of Ballykinlar a village, on land that is unzoned, the site is within the AONB as designated in the Ards and Down Area Plan 2015.



Site Characteristics & Area Characteristics:

The site is located off Commons Road and is the site of a former primary school which has since been demolished and the site is vacant. The foundations of the primary school are visible on site. The eastern boundary backs onto housing at the Links and is defined by 2m close boarded garden fences from the 2 storey dwellings. The southern boundary also

backs onto housing which also forms part of the Links development. To the west is the entrance to Ballykinlar Army Barracks and this boundary forms the edge of the settlement limit for the village. The vehicular access serving the site exists onto Commons Road. There is also a pedestrian access to the west of the site which serves the nearby housing. A garage is located to the north of the site.



Site History:

Surrounding area

R/2009/0048CA The Links, Ballykinlar. Operational Devt - Enforcement Case Closed.2009

R/2004/0182/F Lands off Ringsallin Gardens & to rear of Tyrella Primary School, Ballykinlar
Private residential housing PERMISSION GRANTED 02.02.2005

R/2003/0728/F Tyrella Primary School,83 Commons Road,Ballykinler,Downpatrick.
Window replacement and re-roofing. PERMISSION GRANTED 07.08.2003

R/2002/0711/O Lands contained in & adj to 79A & 79 Commons Road, Ballykinler. 1 no.
dwelling house PERMISSION GRANTED 15.08.2006

R/2000/1350/O Off Ringsallin Gardens, Ballykinlar, Downpatrick Housing development.
PERMISSION GRANTED 23.06.2001

R/1994/0434 Tyrella Primary School Commons Road Ballykinler 2 no 9 x 6m Temporary
Classrooms PERMISSION GRANTED

R/1990/6020 Land of Commons Road Proposed Housing Development Land of Commons
Road & Sand Lane Ballykinlar

Planning Policies & Material Considerations:

The application site is located within the settlement of Ballykinlar 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 2, PPS 3.

Consultations:

NI water – statutory response
DFI Roads – No objections subject to conditions

Objections & Representations

In line with statutory requirements 31 neighbours have been notified on 14.08.2018. The application was advertised in the Mourne Observer and the Down Recorder on 08.08.2018. No letters of objection have been received to date.

One letter has been received by Disability Sport NI whereby they would like to encourage the needs of people with disabilities and the principles of inclusive design are prioritised within the design. They have highlighted the ramp gradient to allow people with such disabilities to access the facilities. As part of the design a ramp has been included to the front elevation of the building allowing wheelchair users to use the centre.

Consideration and Assessment:

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 Ards and Down Area Plan 2015 as the new council has not yet adopted a local development plan. The site is within the settlement limit of Ballykinlar on the above Plan, and is within unzoned land.

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 application is for a prefabricated single storey building to be used by the local community group for meetings and community activities. There is an existing tarmac access road to the site from Commons Road, which will be retained and as it is a former primary school there are currently on site car parking facilities. Within the site there are grass areas which are currently unkempt and these grassed areas are to be retained for outdoor open space in association with other community activities.

Policy COY 1 - Community Uses (ADAP 2015) is relevant to the application

Planning permission will be granted for community uses provided all the following criteria are met:

- There is no significant detrimental effect on amenity;
- The proposal does not prejudice the comprehensive development of surrounding lands, particularly on zoned sites;
- The proposals are in keeping with size and character of the settlement and its surroundings;
- Where necessary, additional infrastructure is provided by the developer; and,
- There are satisfactory access, parking and sewage disposal arrangements.

The proposed community centre includes two community rooms, associated kitchen, office, toilets, and store. The building measures 17m x (variable depth of 5.5m to 7.5m). The walls will be light grey (prefabricated external skin) and the roof will be dark grey metal profiled roofing.

The proposal would comply with policy COY 1, there would be no significant detrimental impact on amenity of local residents as the building is sited a sufficient distance from these residential properties. An hours of opening condition can be added if deemed necessary to safeguard the living conditions of nearby residents. It will not prejudice the comprehensive development of surrounding lands including the zoned housing site to the east. The design of the building is acceptable and it is in keeping with the size and character of the settlement and its surroundings. The external materials proposed are acceptable for a community building in an urban site. The Council has provided other similar community centres.

PPS 2 – Natural Heritage

As the site lies within an AONB, then Policy NH 2 is applicable. This policy requires development proposals in Areas of Outstanding Natural Beauty (AONB) to be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife. It also states that "new buildings should respect local architectural styles and patterns". The proposal would have limited visual impact given its size and height on a site that accommodated a former primary school and that it is enclosed by existing development. The building will have a low pitched roof which would limit its visual impact in the AONB.

Conclusion

The proposal is considered to comply with relevant planning policies and it is recommended that the application be approved subject to conditions.

Recommendation:

Approval

Conditions:

Time, landscaping.

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. All hard and soft landscape works shall be carried out in accordance with the approved plans. The works shall be carried out prior to the occupation of any part of the development.

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

Case Officer Signature

Date

Appointed Officer Signature

Date

ITEM NO	3				
APPLIC NO	LA07/2016/1632/O	Outline	DATE VALID	07/12/2016	
COUNCIL OPINION	REFUSAL				
APPLICANT	Jason Fegan 9 Forestbrook Avenue Rostrevor BT34 3BX		AGENT		
LOCATION				NA	
	Lands 45m north west of No. 12 Upper Knockbarragh Road Warrenpoint BT34 3DL				
PROPOSAL	Proposed Farm Dwelling				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	0	0	0	0	
			Addresses	Signatures	Addresses
			0	0	0
					Signatures
					0

1. 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 (and access to the dwelling is not obtained from an existing lane.)

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

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 Strategic Planning Policy Statement for Northern Ireland (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 Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
the building would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
4. The proposal is contrary to the Strategic Policy Statement for Northern Ireland (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Upper Knockbarragh Road.



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**Newry, Mourne
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District Council

Application Reference:

LA07/2016/1632/O

Date Received:

07/12/2016

Proposal:

Proposed farm dwelling

Location:

Lands 45m North West of No.12 Upper Knockbarragh Road, Warrenpoint, BT34 3DL

Site Characteristics & Area Characteristics:

The site is located approximately 3.1 miles from Warrenpoint in rural uplands overlooking Carlingford Lough to the South and which is surrounded by mountain land to the east and west, which form part of Mourne Area of Outstanding Natural Beauty (AONB.) In the immediate vicinity, there are a number of dwellings in the immediate vicinity, including No.12, a modest bungalow to the south and No.14 a contemporary two storey dwelling further north.

The site itself comprises a roadside field used for agriculture which slopes upwards gradually to the north and which is delineated by mature indigenous hedgerow on all four boundaries, which is further supported by mature trees along the road side and northern boundaries. There is an existing field gate access directly off Upper Knockbarragh Road close to the laneway of No.12. In addition, there is an existing electricity pole towards the centre area of the field.

Site History:

Application reference	Proposed Development	Status
P/1992/0850	Site for retirement dwelling	application withdrawn
Additional history on the farm holding:		
P/2006/1717/F (field 2)	29 Upper Knockbarragh Road - extension to rear of dwelling	Permission granted 12/01/2007
P/1999/1116/F (field 2)	29 Upper Knockbarragh Road - erection of replacement dwelling	Permission granted 11/01/2000

Planning Policies & Material Considerations:

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge / Newry and Mourne Local Area Plan 2015 (BNMAP2015)
- PPS2 'Natural Heritage'
- PPS 3 'Access, Movement and Parking'
- PPS 21 'Sustainable Development in the Countryside'
- 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside
- 'Dwellings in the Mournes' A Design Guide

Consultations:

<u>TNI:</u>	No objections, subject to conditions (13/01/2017)
<u>Environmental Health:</u>	No objections in principle. This department recommends that the proposed dwelling is situated a minimum of 75m from farm buildings. (04/01/2017)
<u>NI Water:</u>	No objections, standard informatives. (03/01/2017)
<u>DAERA :</u>	Farm Business ID 623035 has been in existence for more than 6 years and has not claimed subsidies in the past year (17/01/2017)

Objections & Representations

- 1 Neighbouring property notified (No.12 Upper Knockbarragh Road) 29/12/2016 (statutory expiry date 12/01/2017)
- Advertised in 3 local press publications (statutory publication end 20/01/2017)
- 0 objections / representations received

Consideration and Assessment:

The site is located out with settlement development limits as identified by the Banbridge / Newry and Mourne Area Plan 2015. It is also within the designated Mourne AONB. This proposal seeks outline permission for a dwelling on a farm. As there is no specific policy within BNMAP relative to this site and given there is no significant change to the policy requirements for dwellings on farms following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

Principle of Development

The proposed farm dwelling is made against farm business ID 623035. DAERA note in their consultation response dated 17/01/2017 that the applicant is not a formal member of this farm business. The associated P1C form notes that the applicant is the land owner of the field and it has been signed by both the applicant and the respective farm business owner, as required. PPS21 Policy CTY1 states that a

number of developments are acceptable in principle in the countryside, which includes farm dwellings if they are in accordance with Policy CTY10. There are three criteria to be met:

Criterion (a) requires that the farm business is currently active and has been established for at least 6 years:

DAERA in their consultation response dated 17/01/2017 confirm that the respective farm business has been in existence for more than 6 years but has not claimed subsidies in the past year, the initial test for 'activity.' Evidence was received on 12/04/2017 to demonstrate that the farm business is currently active, including the following:

- Correspondence from DAERA veterinary testing department dated 06/10/2016, 05/09/2016, 14/10/2016, 03/09/2015;
- Correspondence from DAERA Agri-food inspection branch dated 2014;
- Invoices from the British Limousin Cattle Society Ltd dated 19/10/2016, 08/12/2016, 16/03/2010;
- Farm Quality Assurance Certification dated August 2009;
- DAERA Herd list details 01/09/2009, NFSCo CIC membership invoice dated 31/03/2017.

Following receipt of this information, I am satisfied that farm business ID 623035 is currently active and criterion (a) is met.

Criterion (b) seeks to confirm 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:

The planning history as listed above demonstrates that the above criterion is met.

Criterion (c) requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm:

The established group of farm buildings in this case include No. 29 Upper Knockbarragh Road (adjacent / west of field 2) and an existing agricultural shed located on the opposite side of Upper Knockbarragh Road on field 1 of the farm maps. (There are no previous planning records for this shed, however spatial imagery demonstrates that this building was present in December 2008. The farm business owner should be advised to apply for a Certificate of Lawfulness to ascertain the legal status of this building.) The subject site is located approximately 965m South East of this building group along Upper Knockbarragh Road. There are no buildings associated with farm business ID 623035 on this site with which to group a future dwelling. Whilst a dwelling could visually link with buildings associated with No.12 Upper Knockbarragh Road, Policy CTY10 does not permit grouping with buildings linked to a third party farm holding.

The applicant was made aware of the above concerns early on and advised that this policy criterion can be met through an alternative site on the farm holding and was

directed to fields 1 or 2 by way of guidance. The applicant explained that land ownership issues prevent this as a feasible solution as fields 1,2,4 and 7 are taken in conacre and are not currently in the ownership of either the applicant or the farm business owner. CTY10 c) makes provision for alternative sites on the farm where there are no other sites available at another group of farm buildings and where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group to prevent this possibility. No information to this effect has been submitted to justify this alternative site in these circumstances, the issue here is land ownership for which CTY10 makes no provision for and is not a material planning consideration.

The applicant was made aware of this and given the opportunity to withdraw this application and come in with an alternative siting. The applicant sought advice from an agent at this stage of the application who has agreed to assess the current application with the information available. As this is the case, the current application fails to meet criteria c) of CTY10.

Where the proposal meets all of the criteria of CTY10, it must also meet the requirements of CTY13, CTY14 and CTY16. For the purposes of completion and a full assessment, these are assessed below.

Design, Integration and Rural Character

The site benefits from mature screening along its northern boundary which at present provides a high degree of screening when travelling south along Upper Knockbarragh Road. When travelling North, the existing road side boundary provides a degree of screening also. A single storey dwelling could potentially be integrated into this site (and PPS3 Policy NH6 met through a sensitive design) however it would not be visually linked or sited to cluster with an established building group on the farm holding, which is contrary to policy CTY13 criterion (c.) In addition, this development as proposed would create a ribbon of development with the existing buildings No.10, No.12, which is contrary to policy CTY14 (criterion d.) and should continue to be refused.

Access, Movement and Parking

Construction of a new access onto Upper Knockbarragh Road is proposed to service the dwelling. Transport NI has no objections in principle to the proposal, subject to conditions. In terms of PPS3, there are no concerns with the proposal. Policy CTY10 criterion c) requires access to be obtained from an existing lane where practicable. There is no access existing at this location therefore the access details would need to be assessed further against policies CTY13 and CTY14 at Reserved Matters stage.

Sewerage / Service Provision

The proposal includes disposal of foul sewage via a septic tank and soak away. This could be achieved within the sites red line boundary and is subject to obtaining consent from NIEA Water Management Unit. NI Water has no objections to the proposal. Given the existing dwellings along this road frontage, it is envisaged a dwelling could connect to the existing services, subject to consent. Policy CTY16 is not offended by the proposal.

Recommendation: Refusal

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and 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.
 - 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
 - verifiable plans exist to expand the farm business at the existing building group 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 Strategic Planning Policy Statement for Northern Ireland (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 Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.



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**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2016/1632/O

Date Received:

07/12/2016

Proposal:

Proposed Farm Dwelling

Location:

Lands 45m north-west of No. 12 Upper Knockbarragh Road, Warrenpoint, BT34 3DL

Addendum to Case Officer's Report

This application was originally recommended for refusal as the proposal is considered to be contrary to the SPPS and policies CTY10, CTY13 and CTY14 CTY3 of PPS21 'Sustainable Development in the Countryside.'

Following recommendation to refuse this application by the Planning Department, it was presented to the Planning Committee on 8th November 2011 (item14) where following discussion, it was agreed to defer the application to enable the Planning Department to re-examine the application against the merits of PPS21 in full. Whilst this application does not meet the test for farm dwellings, it is considered further against the merits of Policy CTY8, the policy for infill dwellings. The SPPS and PPS21 allow for the development of a small gap site in an otherwise substantial and continuously built up frontage, provided it meets the policy criteria of Policy CTY8.

To be classed as an exception under policy CTY8, the development must comprise a small gap site in an otherwise substantially and continuously built up frontage (i.e. 3 or more buildings along a road frontage without accompanying development to the rear) and respect the existing pattern of development along the frontage in terms of size, scale, siting and plot sizes.

The subject site is considered in its current scenario: To the north west of the site, No. 14 (Bayview Cottage) qualifies as one building with road frontage; there is then a field adjacent and north of the site, followed by the site. To the south east, this is followed by No.12 which qualifies as a second building with road frontage, followed by No.10 further south which although set back from the road, its garden fronts onto

Upper Knockbarragh Road and qualifies as a third building with road frontage. In addition, there is an approval for a farm dwelling adjacent to and south east of No. 10 Upper Knockbarragh Road (application reference P/2014/0680/F) which does not appear to have been built yet.

Policy CTY8 stipulates that the 'gap' should be sufficient to only accommodate up to a maximum of two houses and respect the existing development pattern along this frontage in terms of size, scale, siting and plot sizes. For clarification, the 'gap' is considered as the gap between buildings (in this context the gap is taken between No.14 and No.10 Upper Knockbarragh Road in line with the interpretation of the Planning Appeals Commission in their recent appeal reference 2016/A0066.

Siting - As this is an outline proposal, details of siting will be assessed at a later stage. In the event of an approval, a siting condition would be required to ensure any development is in keeping with the existing building line.

Size and scale - The site currently sits between two existing bungalow dwellings to the south east (No's 10, 12) and one two storey dwelling to the north-west (No.14) bungalow dwellings to the south. In the event of an approval, any future dwelling on this site should be single storey given the rise in landform to ensure a satisfactory degree of integration is achieved.

Plot Size - The overall plot depth is comparable with that of No's 12 and 14. The average plot width along the existing frontage is approximately 59.11m, with plot widths varying from 75.44m to 44.36m. In this existing settlement pattern, the gap which is approximately 157m is considered to be wide enough to accommodate 3 dwellings. This existing pattern of development is not considered to merit a substantial and continuously built up frontage, with the existing gap providing a visual break in the developed appearance of this locality which helps to maintain the rural character. The site does not therefore meet the merits of an exception as a *small gap site* (my emphasis) against the criteria of policy CTY8 and development on this site would further add to the existing ribbon along Upper Knockbarragh Road.

The previous consideration of a dwelling on this site as assessed against Policies CTY13 and CTY14 of PPS21 remains unchanged in that the dwelling would create a ribbon of development and is not grouped with an existing group of buildings on the respective farm holding and therefore would not visually integrate into the surrounding landscape

Recommendation: Refusal

Recommendation summary: Proposal has been re-assessed against the merits of Policy CTY8 (infill) and does not merit an exception to this policy as a small gap site. Previous assessment as a farm dwelling against Policies CTY10, CTY13 and CTY14 remains unchanged.

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and 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.
 - 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
 - verifiable plans exist to expand the farm business at the existing building group 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 Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Upper Knockbarragh Road.

3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (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.

4. 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 building would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

<p>Case Officer Signature:</p> <p>Date:</p>
<p>Appointed Officer Signature:</p> <p>Date:</p>



Planning Office
Newry Mourne & Down Council
O Hagan House
Monaghan Row
Newry

Proposed Dwelling

18th September 2018

Ref. GD2860
Your Ref. LA07/2016/1632/O

Dear Sir / Madam,

We understand that the above application is to be presented with the opinion to refuse at the coming council meeting

We would request the opportunity to speak at this meeting.

At the last meeting it was highlighted by one of the councillors that the site might be considered as an "infill" site.

Further to this we have taken advise from Mr Eoin Morgan Planning Permission Experts and enclose Eoin opinion.

In conclusion we would ask for speaking rights for both myself and client Mr Jason Fegan and also Mr Eoin Morgan.

Yours Faithfully

A handwritten signature in black ink, appearing to read 'Colin Dalton', is written over a horizontal line.

Colin Dalton
For and on behalf of GRAY DESIGN LTD

Dear Planning Committee,

The critical test when assessing an infill is whether the proposed site plot width reflects the plot widths of the surrounding curtilages.

The domestic dwelling immediately north of the site (no 14 Upper Knockbarragh Road) has a wide plot at approximately 90m which is unusually large.

The proposed gap is not 157m as previously referred to in previous assessments.

A building had been left out of this case officer's assessment - a farm building which is immune from enforcement and which is immediately south-east of no 14 Upper Knockbarragh. I appreciate that it is the view of the council to have unapproved buildings regularised by a certificate of lawfulness before they can be considered, however this approach often puts the applicant to unnecessary expense and time. (Eg When an application is considered for a replacement dwelling the applicant is not also asked to submit a further application for a certificate of lawfulness regularising the original structure). The point being that the agricultural building has been on site for many years and it is clear from the historical maps that this has been the case and therefore should be treated as frontage.

The gap should also be measured as the gap in frontage as by set out by policy. The gap between buildings has been unfairly measured by the planning office as a diagonal distance and as the proposed development is along frontage rather than diagonally then the frontage width is more relevant.

The gap site's total width along the site frontage is 108m when measured along the frontage which would equate to 54m in width per dwelling.

The average surrounding plot size is approximately 59.11m which is confirmed by the case officer in her report and therefore the site should be acceptable.

It is an accepted principle in planning law that where the planning office/planning committee are unsure in their assessment due to interpretation of policy then the applicant is entitled to have their proposal assessed on the interpretation of policy which is most favourable to them. (William Orbinson, Planning Appeals Principles 4th Edition, the Decision Taking Approach of the PAC, (2014) p.27) This approach would find in favour of the applicant.

Notwithstanding the aforementioned, I appreciate the planning committee's concerns with regard to the size of the gap site as this is not the normal infill scenario.

I also appreciate that the planning office and planning committee's concerns may be that approval of this dwelling will set a precedent for approval of larger infill sites.

There are 2 main reasons why this is not the case:

- Firstly the house to the north has an unusually wide curtilage at 91m which is a relatively rare circumstance
- Secondly this application is still to be considered as a "farm dwelling on an infill site". The case officer in her assessment has accepted that the proposal meets the active farm criterion of the

policy. Therefore it is clear with appropriate siting the applicant could construct a farm dwelling. The applicant is therefore prepared to use up their entitlement as a farm dwelling and for this provision to be used as an overriding material consideration - that is if planning have any remaining concerns regarding the above.

Kind regards,

Eoin

Eoin Morgan LLM MIPI
Lead Consultant

Planning Permission Experts
eoin@planning-experts.com
M : 07824153240
T : 028 95 609927

Liam Hannaway
Chief Executive



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agus an Dúin
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and Down**
District Council

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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

Signature:

Jason Fegan

Organisation:

*Row Morgan - Gray Dissolve.
Planning Permission Experts.*

Date:

18/11/18.

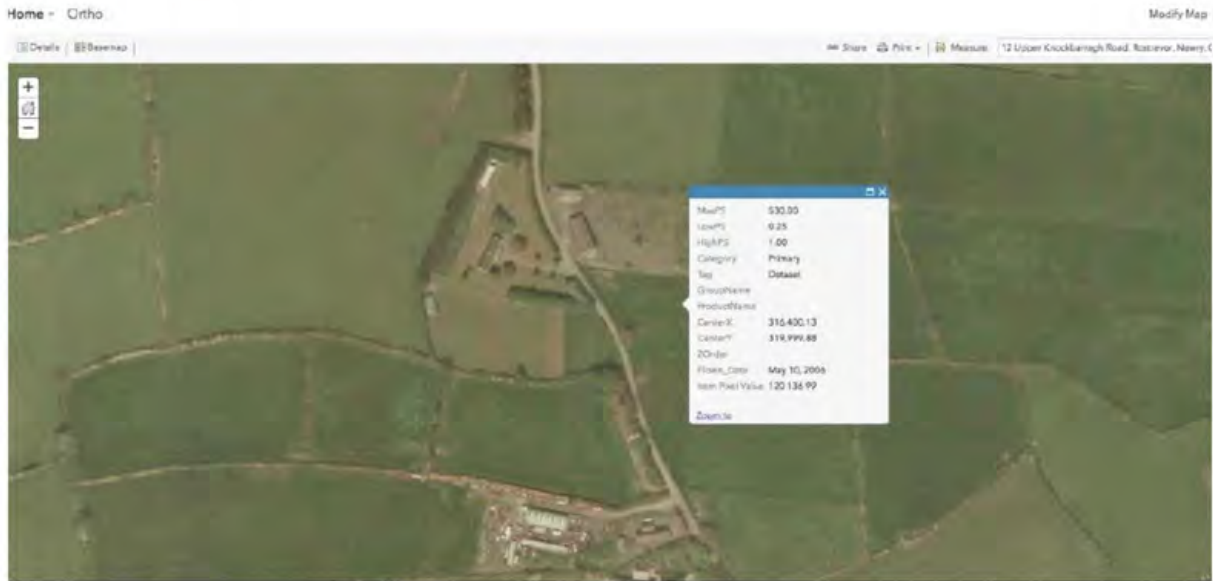
Please return to Democratic Services before the date of your presentation or bring your completed form to the Meeting



REFERENCE
LA07/2016/1632/F
LOCATION
Lands 45m north west of No. 12 Upper Knockbarragh Road Warrenpoint BT34 3DL
PROPOSAL
Proposed Farm Dwelling

Response to Refusal Reasons

1. This document has been prepared for the benefit of the Planning Committee in response to the addition of the above application onto the monthly Council schedule of planning applications.
2. The applicant originally proposed to avail of the farm dwelling provision of PPS21 and submitted an application for a farm dwelling. The applicant then requested additional assessment against the infill policy (CTY8), but whilst still using the farm dwelling entitlement in order to weigh both considerations favourably in the balance.
3. The planning office have recommended that the proposal will contribute to ribbon development. The planning office have also stated that the relevant gap is between 10 and 14 Upper Knockbarragh Road. The planning report however states that the plot depth is comparable to that of no's 12 and 14 and states that plot widths vary from 75.44m to 44.36m. However the plot width of no 14 when measured along the frontage is approximately 89.55m.
4. The planning office are not taking into account an agricultural building which reduced the gap in built frontage to 108m. This building was clearly erected over 20 years ago and must be included in the assessment of buildings. See evidence below from the Ordnance Survey Official Historical Database which we are requesting be included in the consideration of this application.
5. As the building aforementioned is relevant to this application, the history of the agricultural building and evidence submitted showing immunity from enforcement are relevant material considerations. Failure to take account of this consideration may result in a successful judicial review of the planning decision. Requesting the applicant to invest some £1600 in regularisation of a shed (through submission of a certificate of lawfulness) serves no purpose only to put the applicant to unnecessary expense and this approach is not being used readily in other councils for similar applications. The approval of a certificate of lawfulness would only require one corroborated aerial photograph as I have submitted. A list can be compiled showing hundreds of recent examples where farm dwellings, infill dwellings and replacement dwellings have been approved relying on un-regularised buildings which has set a precedent.



- 6. The case officer accepted in the professional report that the average frontage is 59.11m. The size of the gap site is relative to the plots within the ribbon. There is an exceptionally large frontage to no 14 meaning that the acceptable gap size is larger than normal.





7. The gap should also be measured as the gap in frontage as by set out by policy. The gap between buildings will be unfairly measured by the planning office as a diagonal distance and as the proposed development is along frontage rather than diagonally then the frontage width is relevant. The applicant is not proposing to construct the dwellings along diagonal lines at angles but would front towards the road.
8. On the ground, as witnessed by the planning committee the gap site's total width is 108m when measured along the frontage which would equate to 54m in width per dwelling. As can be shown from the above indicative layout the actual frontage and plot width of each plot would be approximately 40m.
9. 3 plots of 59.11m each cannot fit into a gap site which is 108m in width. Therefore the gap in frontage can only accommodate 2 sites which is in accordance with the policy. The planning office have previously deemed gap sites of over 100m (measured building to building) to be acceptable for 1 dwelling. By this logic, then 200m could still constitute "small gap site" for 2 dwellings if surrounding characteristics permit.
10. Notwithstanding the aforementioned, I appreciate the planning committee's concerns with regard to the size of the gap site as this is not the normal infill scenario. I also appreciate that the planning office and planning committee's concerns may be that approval of this dwelling will set a precedent for approval of larger infill sites. There are 3 main reasons why this is not the case:
 - Firstly the house to the north has an unusually wide curtilage at approximately 89m which is a relatively rare circumstance
 - Secondly this application is still to be considered as a "farm dwelling on an infill site". The case officer in her assessment has accepted that the proposal meets the active farm criterion of the policy. Therefore, it is clear with appropriate siting the applicant could construct a farm dwelling. The applicant is therefore prepared to use up their entitlement as a farm dwelling and for this provision to be used as an overriding material consideration - that is if planning have any remaining concerns regarding the above.
 - The gap along the frontage is 108m.
11. As the policy is not definitive when it comes to amplification of acceptable infill sites, leading planning Barrister William Orbinson's publication ("Planning Appeals Principles" (2014)) states where there are inconsistencies in policy these must be weighed in favour of the appellant. This is corroborated by a commissioner in appeal decision 2011/A0277 for an infill dwelling. The applicant therefore respectfully requests that the proposal is approved by the Planning Committee.

ITEM NO	1			DATE VALID	21/06/2016
APPLIC NO	LA07/2016/0865/F	Full			
COUNCIL OPINION	REFUSAL				
APPLICANT	Mr and Mr Dean Brown 34 Wood Road Castlewellan		AGENT	Glyn Mitchell Architectural Design 139 Ballinran Road Kilkeel BT34 4JB	
LOCATION	60m SE of No. 34 Wood Road Castlewellan County Down BT31 9LR			NA	
PROPOSAL	Proposed farm dwelling and domestic garage				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	0	1	0	0	0
			Addresses	Signature	Adresse
			0	s 0	s 0
					Signatures
					0

- The proposal is contrary to the SPPS and 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 insufficient information has been submitted demonstrating a level of involvement commensurate with commercial activity over the requisite period of six years, or that the farm business is currently active and has been established for at least six years.



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**Newry, Mourne
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Application Reference:	LA07/2016/0865/F
Date Received:	21.06.2016
Proposal:	Proposed farm dwelling and domestic garage
Location:	60m SE of No. 34 Wood Road Castlewellan

The above application was presented to the Planning Committee of Newry Mourne and Down Council in July 2017 and was removed at the request of Cllr Macaulay for presentation to August 2017 meeting.

Application was presented to August 2017 Planning Committee and was removed to allow for consideration of additional information which had been received on the 3 August 2017

This report should be read in conjunction with the original case officers report and deals specifically with any new information submitted since May 2017. The information submitted pre May 2017 was not considered sufficient to demonstrate a level of involvement commensurate with commercial activity over the past 6 years and hence had been recommended for refusal.

Policy CTY10 of PPS21 refers to dwellings for those persons involved in the keeping and breeding of horses for commercial purposes. Amplification to the policy states that

Equine businesses are ascribed specific requirements within the remit of Policy CTY10. Paragraph 5.43 states that applicants will have to provide sufficient information to demonstrate a level of involvement commensurate with commercial activity over the requisite period of 6 years. It goes on to state that such information should include a statement of commercial rateable history for the business; copies of appropriate insurances; copies of 'Horse Passports' if applicable; and other information considered relevant to the particular case. Paragraph 5.44 states that those keeping horses and/or ponies for hobby purposes will not satisfy the requirements of the policy.

It should be noted that this listing represents the minimum required.

The nature of the equine business being proposed is that of a commercial stud farm.

Information submitted includes

- Bank Statements for Business Account 2010 to date have been provided.
- Northern Bank letter referring to an arranged overdraft facility of 10,000 for Samuel G Brown. Letter dated October 2012.
- Satellite services for sowing lime and fertiliser 2010-2016.
- Farriers invoices for previous 7 years do not verify a commercial operation.
- FS Herron (Agric Feeds) statement confirming that **Samuel Brown** of Wood Road Stud has been a customer for over 10 years and the average yearly spend would be £450.
- Farm Week advertising invoice for 2016,2015,2014,2013,2012,2011,2010.
- Membership details for British Horse Society for Mr Samuel Brown 2017-2018, 2016-2017 and 2012-2013. Public liability insurance from British Horse Society.
- Copies of Horse Passports for 2 Stallions Greenan Fort and Indian Red.
- 2 Records of Service for 2017 Greenan Fort (2 records of service with details incomplete).
- 15 Records of Service for 2016 for Greenan Fort
- 4 Records of Service for 2016 for Indian Red
- 2 Records of Service for 2015 for Indian Red
- 4 Records of Service for 2012 for Indian Red
- 1 Record of Service for 2010 King of Mourne
- 7 Records of Service for 2011 Indian Red
- Shilliday Hardware and Timber Merchant Invoices to Samuel brown for dates ranging 2010-2015 listing various hardware products. Products of various types.

In consideration of whether the submitted information demonstrates the operation of a stud business, it must be noted that there has been a copious amount of information submitted, however the evidence is not compelling.

No Commercial Rates are paid.

No horse Insurances have been submitted.

No formal Accounts, Tax returns etc submitted.

The policy requires not only that the applicant keeps and breeds horses, but that he does so for commercial as opposed to hobby purposes.

Based on the volume of information submitted, I accept that the applicant is currently involved in the stud business with evidence indicating 3 stallions on site. However the records of service for the 3 stallions, namely Greenan Fort, Indian Red and King of Mourne are not complete for the requisite 6 years prior to the submission of the application in June 2016 and do not demonstrate the operation of a commercial stud business. A search of the Farm Week website refers to Wood Road Stud and refers to the 3 stallions on the stud in an article dated 2018.

However the appellant is required to demonstrate not only that he keeps and breeds horses but that he does so for commercial as opposed to hobby purposes. A distinguishing feature of a business is that money changes hands. There is no policy requirement for an equine business to be large in scale or successful or even profitable, but there has to be a financial dimension.

The applicant has not provided formal accounts or tax returns as would be expected for any business. The applicant has provided bank statements and cheque stubs. No quantification whatsoever has been provided of income and expenditure over the requisite period of six years. The information submitted while voluminous is insufficient to enable an assessment to be made as to whether the level of turnover is commensurate with a commercial enterprise. It has not been demonstrated, therefore, that the appellant's equine activities on the site amount to a business. Proposal is therefore contrary to PPS21 CTY10.

Floor plans and elevational drawings for the proposal do not correspond. The garage would require amendments as it is unacceptable in its current form. Contrary CTY13 design and integration.

Applicant also states he maintains the land in good environmental condition in line with agricultural activity. However the agent has stated that his client does not farm but commercially breeds horses.

Recommendation: Refusal

- 1. The proposal is contrary to the SPPS and 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 insufficient information has been submitted demonstrating a level of involvement commensurate with commercial activity over the requisite period of six years, or that the farm business is currently active and has been established for at least six years.

Signed

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ITEM NO	4				
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 028 90450681	
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	Signature	Adresse
				s	s
			0	0	0
				Signatures	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.



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**Newry, Mourne
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Application Reference: LA07/2017/0290/O
Date Received: 24.02.2017
Proposal: Single Storey 200sqm house with Outbuilding - garage and stores
Location: 110 m south of No 52 Carsonstown Road Saintfield

Reconsideration following Deferment

The application has been reconsidered following deferral of application from Planning Committee of 11 April 2018.

Extract from Planning Committee Minutes read

AGREED: On the proposal of Councillor Hanna seconded by Councillor Ruane it was agreed to defer Planning Application LA07/2017/0290/0 for one month to allow the applicant time to submit documentary evidence to substantiate his claims that the farm was established and active.

Following presentation to Committee, agent engaged in side discussions directly with the DAERA rep. Agent then requested that the Planning Office reconsult DAERA, as he believed DAERA would confirm the active status of the business following his discussions with the DAERA rep.

DAERA rep emailed the planning office on 03 May 2018 stating

"The farm Woodland Grant Scheme commenced for this business on 4th March 1999 and finished in 2013. It is a requirement of this scheme that the trees must be retained for a further 15 years after 2013"

It was not considered necessary to re consult DAERA given this email response. The agent submitted additional supporting information on the application on the 21 May 2018 to be read in conjunction with DAERA email of 03 May 2018.

It included in summary

- Approved application for Woodland Grant Scheme (WGS) / Farm Woodland Premium Scheme (FWPS) (WGS)
- Payment letter for FWAP Annual Premia 2010
- List of Forestry payments 1999-2013. BACS Remittance
- Holding register for Pigs Inventory of movements for 2011 and 2012.

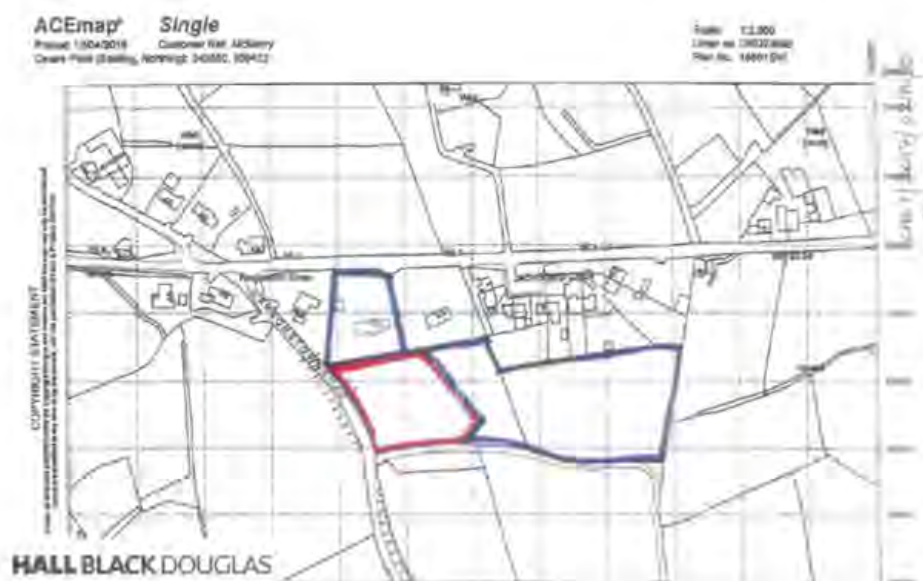
The submitted information has been reviewed. It is clearly stated in the approval letter for the Woodland Grant Scheme (WGS) / Farm Woodland Premium Scheme (FWPS) (WGS) dated 4 March 1999 that "

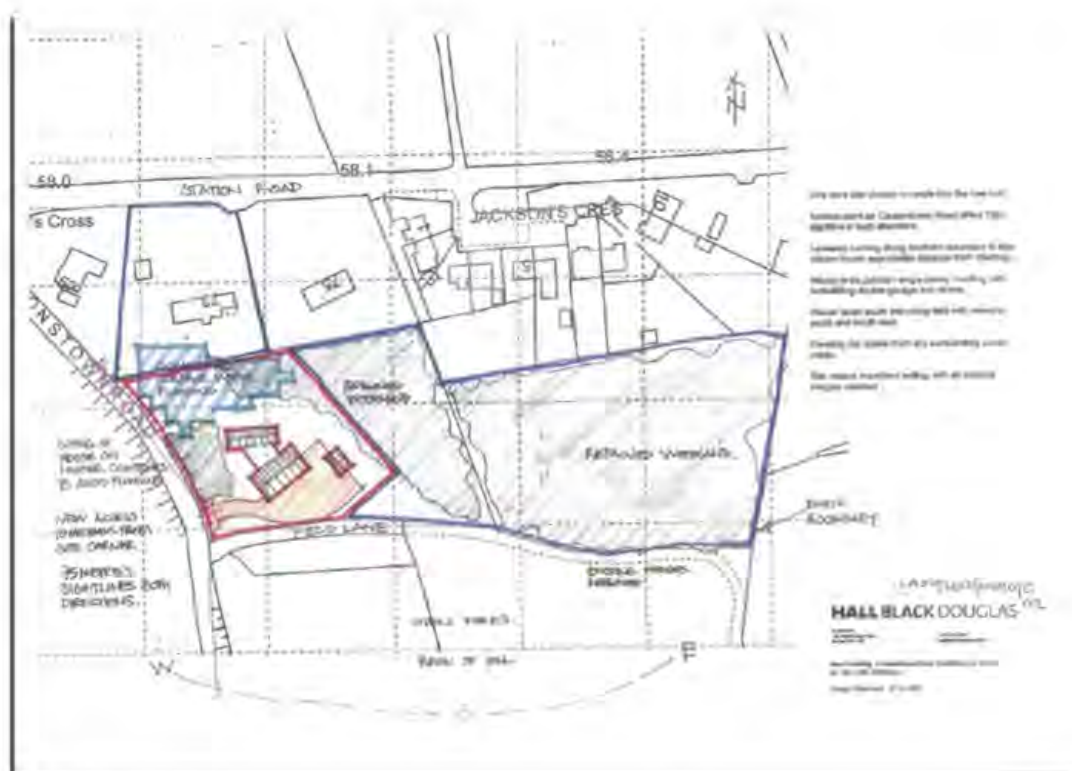
"afforested land removed from agricultural production cannot be counted for forage area in your IACS Area Aid Application".

The payment letter of 3 November 2010 from DARD again states

"You are reminded that under the conditions of the Woodland Grant Scheme/Farm Woodland Premium Scheme (WGS/FWPS) you must maintain the woodland in accordance with good forestry practice and ensure that the land planted with trees is not returned to agriculture for at least 30 years after planting for Broadleaved woodland"

It is not unusual on farm holdings for forestry to represent an ancillary element to the wider agricultural operation of the farm. It is clear in this instance that the entirety of this holding is planted out in Broadleaved Forestry. The lands have therefore been removed from Agricultural production. There is no evidence to suggest any agricultural activity is taking place on the holding. The last pig moved off the holding in 2012.





The Planning Office is content given the email response from DAERA that the lands are currently afforested and that the trees must be retained until 2028. The extracts quoted above clearly state that the lands cannot be returned to agriculture until 30 years after planting. It is also unclear how the applicant intends to comply with the requirement of the Woodland Grant Scheme that the trees are retained until 2028 whilst facilitating the construction of a farm dwelling outbuildings and stores as above.

To conclude, it is clear that this holding whilst it may benefit from holding a farm business number cannot be considered to be actively engaged in agricultural activity given it is entirely afforested with no associated agricultural activity taking place.

In terms of the other reasons or refusal the Planning Offices' concerns regarding the proposal and ribbon development remains.

Recommendation to refuse remains and to be returned to Committee as such

Reasons for 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.

Signed

.....

LA07/2017/0290/O -110m south of 52 Carsonstown Road, Saintfield.

Stephen DOUGLAS  democratic.services@nmandd.org

Dear sirs

The above application is due on the agenda for the Planning Committee Meeting on 26th September coming.

We do not request speaking rights, but submit the following in advance of the meeting for circulation to the Committee:

FAO Annette McAlarney
Senior Planning Officer

LA07/2017/0290/O -110m south of 52 Carsonstown Road, Saintfield.

Further to our email of 20th August we note that our application is scheduled for your September Planning Committee meeting on the 26th. We are disappointed to note that you are still recommending refusal on the grounds of not proving the farm is active and of creating ribbon development. We believe your interpretation of policy relating to both issues is fundamentally flawed and have outlined why in writing on a number of occasions.

- **Active farm:** we have supplied papers showing the planting of trees under a 30 year grant assisted scheme from DAERA is an on-going agricultural activity and DAERA has confirmed this to you in writing. The scheme has passed out of the annual payments into the period where the trees are thinned, but this is at an early stage - trees are a slow growing crop. The Ecology Report submitted confirms the status of the trees. We contend the evidence of the farming activity is clear and self evident. There is no basis for turning down this application based on CTY 10
- **Ribbon development:** the policy talks of dwelling frontages. No 52 is the corner property which addresses the junction at 45 degrees. No 73 frontage is to the main Station Road with no access off Carsonstown Road - indeed it's site barely touches the road at all. Furthermore, given the low lying nature of the land in comparison to the level of Carsonstown Road, these properties are significantly screened from Carsonstown Road. Our proposed access leads to a single story dwelling set within the mature trees - again there is little evidence of a "frontage". We believe that there are no grounds for turning this application down on the basis of CTY 8 or CTY 14.

We believe that, had your officers engaged with the applicant on the principles of design, including a site visit, this application would have been successful. The length of time the two applications have taken to process and the total lack of engagement with the applicant have been deplorable.

For the reasons outlined above, we would urge the Committee to **re-consider** the recommendation made to them by officers in relation to this application.

We understand this submission will be made available to the Committee before the meeting. We remain happy to meet you at any time to discuss the application - preferably on site.

Regards

Stephen Douglas

Director

j

Architects

152 Albertbridge Road

Belfast

BT5 4GS

hallblackdouglas.com

028 9045 0681

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ITEM NO	6			
APPLIC NO	LA07/2017/1256/O	Outline	DATE VALID	16/08/2017
COUNCIL OPINION	REFUSAL			
APPLICANT	Trevor Mawhinney 82 A Carryduff Road Temple Lisburn BT27 6UA		AGENT	
LOCATION	NA			
PROPOSAL	Land between 205 and 209 Belfast Road Ballynahinch BT24 8UR			
REPRESENTATIONS	Dwelling on a farm			
	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	2	0	0	0
			Addresses	Signature
			0	s 0
				Adresse
				s 0
				Signatures
				0

1. The proposal is contrary to the 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 Policies CTY10 and CTY13 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) and the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.



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District Council

Application Reference: LA07/2017/1256/O

Date Received: Aug 2017.

Proposal: Outline planning permission is sought for a dwelling on a farm, on lands between No.205-209 Belfast Road, Ballynahinch.

Applicant Mr T Mawhinney





Location:

The site is located in the countryside off the Belfast Road, as identified in the Ards and Down Area Plan 2015. It is noted the Belfast Road is a Protected Route, while there does not appear to be any other zonings affecting this site. It is noted the site extends to include a man-made lake.

This area is pre-dominantly rural in character, although also includes several dwellings and holdings.

Site Characteristics & Area Characteristics:

The site comprises a roughly square shaped plot of land located off the Belfast Road, which is accessed via an existing laneway. The site includes a man-made lake, grassed area, area of hard-standing for parking and 2 small structures (1 wooden and 1 tin).

Site History:

A history search has been carried out for the site and surrounds whereby it is noted there have been several previous applications in and immediately adjacent to the site, the most relevant of which observed includes:

R/2011/0302/F- lands at 205, 207, 209 Belfast Rd, Retrospective permission for fresh water lake and commercial stocking and breeding of carp, Full, Approval, 30-03-12, Applicant: Mr T Mawhinney

R/2009/1061/LDE- lands at 205, 207, 209 Belfast Rd, Continuation of use (in excess of 10 years) of an existing fresh water lake located at the above address, for the commercial stocking & breeding of carp and the commercial fishing of same, LDE, Refused, 19-02-10, Appeal Withdrawn, Applicant: Mr T Mawhinney

R/2015/0022/O- lands between 205 and 209 Belfast Rd, 2 Infill dwellings, Outline, Approval, 08-10-15, Applicant: Mr T Mawhinney

LA07/2016/0675/RM- lands between 205 and 209 Belfast Rd, 2 infill dwellings, Reserved Matters, Approval, 01-08-16, Applicant: Messers Mawhinney

Consultations:

Having account the nature of this proposal and constraints of the site and area, consultations have been carried out with Transport NI, NI Water, Environmental Health, Rivers Agency, SES, DAERA and NIEA, as part of this application.

NIW, Rivers Agency, SES and Environmental Health offer no objections.

Following receipt of an amended plan Transport NI offer no objections subject to condition, and also advise this is on the basis the application is an exception to policy.

Following receipt of a preliminary ecological appraisal NIEA offer no objections in principle DAERA have advised the farm business has not been in existence for more than 6 yrs and a single farm payment is not claimed for.

It is not considered necessary to seek any additional comments from any other body to fully assess and determine this application.

Objections & Representations

Having account the red line of the application site, neighbour notification was carried out with several properties along Belfast Road in Aug 2017, while the application was also advertised in the local press in Sept 2017.

2 objections have been received to date (10-09-18) from no.207 and 207a Belfast Rd, whereby the main issues raised include:

- proposal fails to meet any of requirements of PPS21,
- this fish farm is not agricultural activity as defined by PPS21
- the proposal fails to meet policy CTY7 of PPS21 as there is no essential site specific need for a dwelling in this location,
- the proposal fails policy CTY13 of PPS21 as there are no permanent buildings to visually link or cluster with,
- other background info regarding the fish culture licence at this site is referred to,
- the applicant has recently received permission for 2 dwellings adjacent and within the boundary of the so called fish farm.

See file for full content of representations received as the above is only a summary of main issues raised.

As stated above the site is located in the countryside as defined in the Ards and Down Area Plan 2015, thus PPS21 (Sustainable Development in the Countryside) and the recently published SPPS (Strategic Planning Policy Statement- Planning for Sustainable Development) 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.

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.

This is an Outline application for a dwelling on a farm, whereby a P1 form, site location plan, and supporting documentation have been submitted.

The information submitted indicates the applicant (Mr Mawhinney) lives at no.82a Carryduff Rd (Temple), which is located approx 3 mile from the site, whereby Certificate C has been completed on the P1 form.

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

The following is noted from the submitted P1C form and supporting information:

- the farm business name is listed as Fort Lough Fish Farm, with a business address listed as 207c Ballynahinch Rd, which is owned by Trevor Mawhinney who lives at 82a Carryduff Rd (Temple),
- the farm business was established in 1978, and have a farm business number AFFNI 91 which was allocated in April 2014.
- a single farm payment is not claimed for.
- this business has a Fish Culture Licence whereby the applicant was granted a licence to operate a carp farm in 1978,
- permission has been granted for this fresh water lake and commercial stocking and breeding of carp on this site.
- letter from DAERA (dated 10th Aug 2017) confirms the site has been a licenced fish farm since 1978, the site is authorised as an aquaculture production business in accordance with the aquatic animal health Regs 2009, the site is currently active and has stock on site as well as an active breeding programme.

It is noted the business number AFFNI 91 is a Aquaculture Production Business Authorisation Number.

The Justification and Amplification of policy CTY10 states that for the purposes of this policy 'Agricultural activity' refers to the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farm purposes, or maintaining the land in good agricultural and environmental condition. (This is in line with EU and DARD Regs).

Having account the information submitted it is considered the nature of this business constitutes Aquaculture and not Agriculture, thus fails the policy test and requirements of CTY10. It is also noted DAERA have advised there is no farm business number, thus there is no farm business that has been in existence for more than 6yrs, while a single farm payment is not claimed.

Notwithstanding the above, it is considered there are no established buildings on the farm to visually link or cluster with. A small wooden and tin shed (each approx. 2m by 2m in size), are not considered to constitute farm buildings.

It is noted permission has recently been granted for 2 new dwellings on the lands between the site and Belfast Rd, whereby the applicant (Mr Mawhinney) was also the same applicant for these 2 dwellings. It is noted works are on-going for the construction of these dwellings thus a Land Registry check was carried out. This check identified that there is currently a sale/transfer of lands pending, however this has not yet completed.

In addition to the provisions of CTY10, an application for a farm dwelling is also required to be considered against the remaining policies of PPS21, whereby policies CTY13-14 and CTY16 are considered key.

Having account existing ground conditions, site levels and topography of the lands, no concerns are expressed regarding undue prominence, however as outlined above, there is no established group of buildings on the farm to visually link or cluster with, thus it is considered the proposal is also contrary to Policy CTY13.

As outlined above the site accesses on to the Belfast Rd via an existing laneway. This Belfast Rd is a Protected Route.

This application is for a farm dwelling which is one of the listed exceptions of AMP3 of PPS3 and Annex 1 of PPS21. While it is considered the proposal fails the policy test of CTY10, it is noted Transport NI have offered no objections to the splays indicated (2.4m by 215m).

However, taking into account the above, it is considered the principle of a farm dwelling is not accepted, whereby the proposal is contrary to Policy CTY1, CTY10, and CTY13 of PPS21.

As such refusal is recommended.

Recommendation: Refusal

Reasons:

- **The proposal is contrary to the 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.**
- **The proposal is contrary to Policies CTY10 and CTY13 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 6 years), and the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.**

Trevor Mawhinney
Fort Lough Fisheries
82a Carryduff Road
Boardmills
BT27 6UA

For the attention of the Planning committee of Newry, Mourne and Down.

Held: Wednesday 26 September 2018 commencing at 10.00 am in the Boardroom, District Council Offices, Monaghan Row, Newry

Location of site: Land between 205 and 209 Belfast Road, Ballynahinch, BT24 8UR

Proposal: Dwelling on a farm

Planning Reference: LA07/2017/1256/O

To whom it may concern:

The submission of Fort Lough Fishery is encapsulated in the letter of 18th September 2018 to the case officer and which letter responds to the case officer's report to the Planning Committee.

The letter explains in detail that the security needs of the fishery and the welfare requirements of the fry which are being raised are such that they are overriding reasons as to why a dwelling at the site is essential and that it would be pointless locating it in a nearby settlement. Under such circumstances, the Planning Committee is fully entitled to approve the dwelling in accordance with policy CTY 1 of PPS 21.

In addition, for the purposes of policy CTY 10 of PPS 21, please also find attached a letter from DAERA confirming that the fish farm is active, a licence to operate granted as far back as 1978 and retrospective planning permission for the expansion of the lake (which, of itself, confirms that the Department of the Environment were content that the facility existed at the time of the grant of permission).

Thank you for taking the time to read and consider this information.

Yours sincerely,

Trevor Mawhinney

Newry, Mourne and Down Planning

Planning Office

Mr Trevor Mawhinney

Downshire Civic Centre

82a Carryduff Road

Ardglass Road

Boardmills

Downpatrick

Lisburn

BT30 6GQ

BT27 6UA

For the Attention of **Mr Mark Keane** - Planning Officer:

Date: 17.09.2018

Dear Mr Keane,

Location: Land between 205 and 209 Belfast Road, Ballynahinch, BT24 8UR**Proposal: Dwelling on a farm****Planning Reference: LA07/2017/1256/O**

I refer to the above and to your report to the Planning Committee which has become available online in the last few days.

As you will be aware, I had requested an opportunity to meet with you. The request was declined. I would invite you to reconsider my request for a meeting once you have had an opportunity to consider the points raised, I hope helpfully, below:

PPS21 – Policy CTY 1

Your report to the Planning Committee asserts, in the context of policy CTY1 of PPS21 that there are no overriding reasons why the development is essential and could not be located in a settlement. This reasoning is also reflected in the first draft reason for refusal in your report.

At the outset, I would like to apologise for failing to provide you with sufficient information in this regard. This letter seeks to address this failing.

The overriding reasons why the development is essential and could not be located in a settlement are firstly, because the dwelling is required to provide security for the fishery and secondly, because the fry raised at the fishery require my attendance at the fishery multiple times per day.

Fort Lough Fishery is the last remaining commercial fishery in NI. Despite the fishery being enclosed and entrance gates kept locked, the fishery has been the victim of theft with stocks of carp stolen. As evidence of this, the theft was reported to the police - the PSNI crime number reference is 782 should you wish to check this.

As a small commercial operation, any such loss is commercially devastating. It has taken considerable time, money and effort to restock the facility but another significant theft of stock would render the business unviable.

As you will appreciate from your site visit, the carp lake is of a scale that it is impossible to secure further by fencing (which in any event would be visually incongruous) and similarly, financially unfeasible to monitor by CCTV cameras.

In such circumstances, the only realistic solution is for me to live on the site.

Whilst I have secured in recent years permission via CTY 8 for dwellings, these dwellings are for my two sons and their young families. My sons and their wives all have jobs which means that they will not provide a deterrent to would be thieves on a daily basis. Attainment of dwellings under CTY 8 does not preclude attaining a dwelling under CTY 1 or CTY 10 (indeed, for the reasons given later in this letter, the two approved dwellings under construction facilitate approval of the application under the latter policy).

The nature of carp breeding also necessitates my regular presence on the farm at regular intervals each day. This year we have fry on site growing on. The fry require to be fed 3-4 times a day and the nature of the food is not suitable for an automated feeder. This is not mere assertion- as evidence of the requirement to feed carp fry this regularly, I attach extracts of relevant articles on raising fry which confirm the need for the fry to be fed 4 times every day to properly develop. (Article, Page 5)

As further evidence of the bona fide overriding requirement for a dwelling at this location, I can confirm that I would be happy to accept a condition on the permission requiring the occupant to be employed in the management of the fishery if this was considered essential.

If it is accepted that there is an overriding need for the dwelling to be on the farm then it is not necessary for the application to meet the policy requirements of CTY 10 (a point confirmed by the PAC in decisions such as Nugent (2015/A0144) with which you will be familiar).

Having now had the opportunity to consider your report to the Planning Committee in the last few days, I would make the following brief points for your consideration regarding policy CTY 10 in the event that you still feel that consideration under this policy becomes necessary.

PPS 21 – Policy CTY10

Your report and specifically the second proposed reason for refusal refer to the policy requirement within CTY 10 that the farm business is currently active and has been established for at least 6 years. Substantial information has already been provided on this issue in support of the application - including a licence for the fish farm and a letter from DAERA confirming that the fish farm is active and has been licensed to operate since 1978. I would respectfully suggest that this is compelling evidence of activity however, I would nonetheless be happy to provide further evidence in the form of invoices evidencing expenditure if this would assist?

Your report to the Planning Committee notes that I have not provided a business ID number. I have however provided you with a DARD evidence in the form of licences, retrospective planning permissions and correspondence from relevant officials to show the longevity of the operation.

In any event, provision of a DARD number is, of course, not essential to satisfy this element of policy CTY 10 (see PAC decision 2015/A0117 – Matthews). The fact that farm activity can be established for the purposes of CTY 10 without providing a business ID number is not mentioned or acknowledged in your report to the Planning Committee.

Importantly, I note that during your site visit you only visited part of the fishery operation. (Please note photographs included Page 4 which show the breeding pond and fry facility which you did not

visit). At present, there are a range of fish of varying sizes available for inspection at this facility prior to be transferred to the lake and its deeper water for winter.

Self-evidently, it is impossible to reach a definitive conclusion on the activity of the farm business if one of the salient elements of the business has not been inspected. You would be most welcome to revisit the fishery and assess the breeding pond facility for yourself.

Your report also helpfully flags up the requirement of policy CTY 10 that the new building is visually linked or sited to cluster with an established group of buildings on the farm. On your visit to the site you will have observed several small outbuildings and PAC decisions such as Cassidy have helpfully confirmed the principle that an outbuilding can constitute a building for the purposes of this element of the policy.

However, there is no need for reliance upon such these structures as the two aforesaid buildings approved pursuant to policy CTY8 are now established and at an advanced stage of construction.

Your report also refers to the fact that one of the said dwellings is in the course of being transferred to my son. As you will be aware, this is no obstacle to approval of the application under policy CTY 10 as the transfer did not take place in the ten year period BEFORE the application was submitted.

This then leaves your residual concern regarding visual linkage and clustering. This can easily be addressed by a minor revision to the application site boundaries to include the area shown hatched red on the attached plan upon which the proposed dwelling could be situated so that it is even closer to the aforesaid two dwellings and visually linked with them to an even greater degree if this is considered necessary. I would be happy to accept a condition requiring the dwelling to be constructed in this location.

Apologies for the length of this letter however, I hope that it comprehensively addresses the issues raised in your letter and demonstrates that a dwelling should be approved via either policy CTY1 or policy CTY 10.

In this letter I have offered to provide further documentary evidence, invited you to visit the remainder of the commercial fishery and requested a meeting. I look forward to hearing from you further in respect of each.

Yours sincerely,

Trevor Mawhinney

Mob: 077590546478

Hatchery



The hatchery from fry upward to fingerling and onward growth. Sheltered quiet area.

Fry – End of season



Successful breeding at the end of season. – Young fry on a 3-4 time daily feeding schedule.



Bangladesh J. Fish. Res., 5(2), 2001: 149-154

Effect of feeding frequency on the growth of common carp (*Cyprinus carpio* L.) fry

S. M. Sultana, M. Das* and S. C. Chakraborty¹

Department of Aquaculture, Bangladesh Agricultural University, Mymensingh, 2202, Bangladesh

¹Department of Fisheries Technology, BAU, Mymensingh, 2202

*Corresponding author

Abstract

A laboratory-feeding trial was conducted for 45 days with fry of common carp *Cyprinus carpio* L. (0.45 ± 0.03 g) in aquaria in a static indoor fish rearing system. The fry were fed on a pelleted diet containing 33% crude protein having fishmeal as major protein source. The fish fry in five treatments A, B, C, D, and E, each with two replicates were fed on 5% daily ration divided into different feeding frequencies of 2, 3, 4, 5 and 6 times a day respectively in order to observe the growth performance. Each replicate contained 15 fry having total initial weight of 6.87 ± 0.31 g. At the end of the feeding trial, significantly different and higher ($p < 0.05$) growth response was observed in treatment C having a feeding frequencies of 4 times a day. Significantly the highest and the lowest percent growth of 334.30 and 218.91% were observed in fish fed on the diet (Treatment C) with 4 times and (Treatment A) 2 times feeding frequencies per day, respectively. Food conversion ratio (FCR) of 1.78 was significantly higher ($p < 0.05$) in fish fed on the diet having 2 times feeding frequencies whereas, the least value of 1.22 was obtained in fish fed on the diet with 4 times daily feeding. Protein efficiency ratio (PER) ranged from 1.68 in fish in treatment A having a feeding frequencies of 2 times per day to 2.48 in fish in treatment C fed on the diet with 4 times feeding frequencies. Other growth parameters *viz.*, specific growth rate (SGR), apparent protein digestibility (ADP) were also higher in treatment C than the other treatments. The results of the present study demonstrated that the growth performance of *C. carpio* was the best at 4 times feeding in a day using 33% dietary protein containing fish meal as major protein source.

Key word: Feeding frequency, *Cyprinus carpio*, Fry

Introduction

Expansion of aquacultural practice of a target species greatly depends on feeding technology and feed cost is one of the largest operational costs in aquaculture (De Silva and Davy 1992). The feed to be presented to the target species should be nutritionally balanced, easily utilizable and also digestible for the viability of the aquacultural practice. In general the feeding regime and growth of fish are very much related. It is evident from earlier studies that the rate of feeding alters nutrient intake and digestibility, as excess feeding may lead to leaching of nutrients and limited feeding may

Environment, Marine & Fisheries Group
 Marine & Fisheries Division



Department of
**Agriculture, Environment
 and Rural Affairs**

www.daera-ni.gov.uk

Fort Lough Fish Farm
 (205) 207C Belfast Raod
 Ballynahinch
 Co. Down
 BT24 8UR

Fisheries Inspectorate
 Block 1, Downshire Civic Centre
 Downshire Estate, Ardglass Road
 Downpatrick, Co Down
 BT30 6GQ
 Tel: 028 4461 8062

10th August 2017



LAD 7 / 17 / 1256

Dear Mr. Mawhinney

I can confirm this site has been a licenced fish farm from the date of issue of the Fish Culture Licence (issued under the 1966 Fisheries Act NI) 1978. The site is also authorized as Aquaculture Production Business(APB) in line with the Aquatic Animal Health Regulations 2009. The site is currently active and has stock on site as well as an active breeding program. There are currently no Licenced / Authorized sites within Northern Ireland breeding / trading in Carp.

David Maginnes
Fisheries Officer
Aquaculture and Fish Health

TO THE OCCUPIER

PTO:

FISHERIES ACT (NORTHERN IRELAND) 1966

FISH CULTURE LICENCE LA07/17/1256



The Department of Agriculture for Northern Ireland (hereinafter called "the Department") in exercise of its powers under Section II of the Fisheries Act (Northern Ireland) 1966 (hereinafter called "the Act") and subject to the conditions contained in the Schedule hereto hereby authorises Mr James Mawhinney, 123 Saintfield Road, Belfast, (hereinafter called "the licence holder") to operate an ornamental carp farm (hereinafter called "the fish farm") at 205 Belfast Road, Ballynahinch, in connection herewith in relation to the culture of fish:-

- (a) to purchase and have in possession ornamental carp; *Cyprinus*
- (b) to capture and have in possession within the confines of the fish farm ornamental carp;
- (c) to have in possession and to use landing nets for the purpose of capturing the fish referred to in the paragraph (b) above.

THE SCHEDULE

The conditions of the licence:-

1. No fish other than ornamental carp shall be handled.
2. The fish farm shall be open to inspection at all reasonable times by an officer of the Department authorised by the Department to exercise the powers conferred by Section 178 of the Act.
3. The licence holder shall notify the Fisheries Division of the Department within 48 hours of the appearance or suspect appearance of any disease among the ornamental carp.
4. In the event of disease appearing or suspected among the ornamental carp the licence holder shall comply with the directions of the Department as to the treatment and disposal of any or all stocks.
5. The fish shall only be fed prepared dry feed and pellets and no other food other than any approved by the Department in writing.
6. The licence holder shall make adequate arrangements for the hygienic operation of the fish farm (including the selection and preparation of food, treatment and disposal of effluent) and to that end shall comply with any direction which may be issued from time to time by the Department.
7. The licence holder shall at all times operate the fish farm in accordance with the terms and conditions of this licence.
8. The Department may revoke this licence if for any reason the licence holder shall cease to operate the fish farm.

Dated the day of September 1978.

Signed on behalf of the Department

K. E. PARKIN

KENNETH-FREDERICK PARKIN

Senior Assistant Secretary



DOE

Department of
the Environment
www.doeni.gov.uk

LA07/17/1256

APPROVAL OF PLANNING PERMISSION
Planning (Northern Ireland) Order 1991

Application No: **R/2011/0302/E**

Date of Application: **7th April 2011**

Site of Proposed Development: **Lands between 205
207 and 209 Belfast Road
Ballynahinch.**

Description of Proposal: **Retrospective permission for fresh water lake and commercial
stocking and breeding of carp.**

Applicant: **Trevor Mawhinney**
Address: **82A Garryduff Road
Temple
BT27 6UA**

Agent: **Carson McDowell Solicitors**
Address: **Murray House
Murray Street
Belfast
BT1 6DN**

Drawing Ref: **Supporting Booklet**

The Department of the Environment in pursuance of its powers under the above-mentioned
Order hereby

GRANTS PLANNING PERMISSION

for the above-mentioned development in accordance with your application subject to
compliance with the following conditions which are imposed for the reasons stated:

This permission is valid from the date of this decision notice and is granted under

Application No. R/2011/0302/E

DU





Department of
the Environment
www.doeni.gov.uk

Article 28a of the Planning (NI) Order 1991

Informatives

1. Rivers Agency have advised there are no watercourses which are designated under the terms of the Drainage (NI) Order 1973 within or in the immediate vicinity of these lands. The continuing maintenance of any undesignated watercourses in the vicinity is the responsibility of the riparian landowners.

These lands do not lie within or adjacent to a fluvial flood plain.

Rivers Agency has no objections from the drainage aspect to the above proposal.

Please noted that any proposals, either temporary or permanent, in connection with this proposal, which involve interference with any watercourse such as culverting, bridging, diverting, building adjacent to, discharging of stormwater to, etc, require the prior, formal, written consent of Rivers Agency.

This should be obtained from the Regional Office at Ravenhill House, Lisburn.

2. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.

3. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site, such as diversion, culverting, bridging, or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

4. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

5. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.

Dated: 30th March 2012

Authorised Officer

Application No. R/2011/0302/F

DET





Department of
**Agriculture and
Rural Development**

www.dardni.gov.uk

AN ROINN
**Talmhaíochta agus
Forbartha Tuaithe**

MINISTÉIRE O
**Fairs an
Kintra Fordèrin**

AQUATIC ANIMAL HEALTH REGULATIONS (NORTHERN IRELAND) 2009

AQUACULTURE PRODUCTION BUSINESS

AUTHORISATION NO. AFFNI 91

The Department of Agriculture and Rural Development ("the Department"), in exercise of its powers under the Aquatic Animal Health Regulations (Northern Ireland) 2009 ("the Regulations") and subject to the conditions contained in the Schedule authorises Mr. Trevor Mawhinney, Fort Lough Fish Farm ("the Operator") to operate an Aquaculture Production Business ("the business") at a site at 82A Carryduff Road, Lisburn, Co. Antrim BT27 6UA.

THE SCHEDULE

Conditions of the Authorisation

1. Only species listed at Annex 1 may be kept on the site.
2. The Operator shall ensure that all operations carried out in relation to the business comply with the terms and conditions of the authorisation and within the provisions of the Regulations.
3. The Operator shall keep a record of the movements of any aquaculture animals into and out of the site. The Department may direct in writing, the form, manner and frequency such records shall be kept.
4. The Operator shall keep a record of the mortality occurring among aquaculture animals on the site. The Department may direct in writing, the form, manner and frequency such records shall be kept.
5. The Operator shall comply with the requirements of any risk-based animal health surveillance scheme or other surveillance scheme applied to the site.
6. The Operator shall keep records of any surveillance scheme applied to the site. The Department may direct in writing, the form, manner and frequency such records shall be kept.
7. The Operator shall make available any records required to be held under the conditions of this authorisation or under the Regulations for inspection at all

reasonable times by an Officer of the Department authorised to exercise the powers conferred by the Regulations, and shall furnish to the Department copies of such records as the Department may from time to time request.

8. The site shall be open to inspection at all reasonable times by an Officer of the Department authorised to exercise the powers conferred by the Regulations.
9. The Operator shall ensure that good bio-security and good hygiene practices are implemented at the site at all times and shall comply with any direction issued by the Department in writing.
10. The Operator shall notify the Department immediately of the appearance or suspected appearance of any disease listed in Part II of Annex IV of Council Directive 2006/88/EC or Schedule 1 of the Regulations among aquatic animals on the site.
11. In the event of disease appearing or being suspected among aquatic animals on the site, the Operator shall comply with any direction issued by the Department as to the treatment or disposal of any or all of the stock on the site.
12. The Operator shall notify the Department of any increased mortality among aquatic animals on the site.
13. The Operator shall provide the Department with such samples of aquatic animals from the site as the Department may require for the purposes of carrying out tests to establish whether disease is present on the site. All samples shall be provided by the Operator free of charge.
14. In the event of disease appearing or being suspected among aquatic animals on the site, the Operator shall comply with any disease control measures implemented by the Department.
15. Where a Fish Culture Licence is required under Section 11 of the Fisheries Act (Northern Ireland) 1966 or an Aquaculture Licence is required under Section 52A of the Foyle Fisheries Act (Northern Ireland) 1952 this authorisation is only valid while such a Licence remains in force.
16. This authorisation is valid until 31 July 2019 by which date the Operator must have applied for, and obtained, a further authorisation from the Department if the business wishes to continue to operate.

Dated this 16th day of April 2014

Signed on behalf of the Department of Agriculture and Rural Development



Dr John Speers
Director of Fisheries and Environment Division

ANNEX 1

Listed species permitted to be held on site:

Common Carp (*Cyprinus carpio*)

NOTE

1. This authorisation may be amended in accordance with the provisions of regulation 9 of the Regulations, suspended or revoked as provided for in regulations 10 and 11 of the Regulations, or surrendered in accordance with the provisions of regulation 12 of the Regulations.
2. This authorisation is not a document of title.
3. It is an offence to:-
 - a) operate an aquaculture production business with respect to which an authorisation is not for the time being in force; or
 - b) operate an aquaculture production business with respect to which such an authorisation is in force, otherwise than in accordance with any conditions attached to the authorisation.

ITEM NO	13				
APPLIC NO	R/2013/0375/F		Full	DATE VALID	21/08/2013
COUNCIL OPINION	REFUSAL				
APPLICANT	Mrs Mary O'Prey			AGENT	Hillen Architects Limited 87 Central Promenade Newcastle BT33 0HH 02843725535
LOCATION	Lands 40m NW of 9 Wateresk Road Dundrum Co Down.				
PROPOSAL	Proposed house and garage on the farm for a family member.				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	0	0	0		0
			Addresses	Signature	Adresse
			0	s 0	s 0
					Signatures
					0

- The proposal is contrary to the SPPS and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business is currently active and has been established for a period of at least 6 years.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:	R/2013/0375/F
Date Received:	21.08.2013
Proposal:	Proposed house and garage on the farm for a family member.
Location:	Lands 40m NW of 9 Wateresk Road Dundrum

Reconsideration following Deferment

This report should be read in conjunction with original case officers report to Committee in June 2016. The application has been reconsidered following deferral of application from Planning Committee of 08 June 2016, primarily to seek legal advice on the issue of Active Farming.

AGREED: On the proposal of Councillor McAteer seconded by Councillor Murnin it was agreed to defer Planning Application R/2013/0375/F and that, in the interim, Officers to engage a barrister to assist in preparing a report providing details on the following issues, in order to provide the Planning Committee with more detailed information before proceeding with issuing a determination on Planning Application R/2013/0375/F:

- (a) Clarification on issues regarding letting of land on conacre.
- (b) Clarification on what defines 'active farming'.
- (c) Advice on Planning Appeal 2014/A0133 and other significant Appeal decisions on this issues.

Legal advice clarifying above has been received and the application has been reconsidered in light of this advice.

In the interests of fairness to the applicant given the length of time the application has been in the system the applicant was afforded the opportunity to submit any

further supporting information demonstrating active farming of the farm business since June 2016. DAERA were also re-consulted in July 2018.

No further supporting information has been submitted to date.

DAERA responded stating that the farm business ID was in existence for over 6 years however no subsidy claims had been made in the last 6 years.

DEARA further advised that the Farm Business is Category 3 and cannot therefore claim SFP or BPS. Category 3 ID's are issued for veterinary purposes to enable keepers of a small number of animals to operate a herd or flock, typically no more than 5 cattle or 10 sheep.

They advise that the site of the proposed dwelling is located on land associated with another farm business.

In essence what this means is that the lands continue to be let in conacre to another farmer.

Consideration has been given to Appeal ref 2014/A0133, the circumstances of this case differ from the current case in that the issue in the appeal case was the use of a Farm business ID by a non farmer, ie rural dweller applying for a dwelling on a farm under an active and established farm business. The other issue was the matter of conacre, however in the appeal case the farm holding was split between 2 persons as the result of an inheritance. There was one business ID pertaining to the holding. The applicants half of the farm holding was let in conacre the other was actively farmed by the other owner. PAC found that the farm business was actively farmed. As can be seen the particulars of the Appeal case are not directly comparable to this case.

The proposal fails to satisfy the active farming requirement as required by policy. Lands are still let in conacre.

Recommend Refusal

- 1. **The proposal is contrary to the SPPS and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business is currently active and has been established for a period of at least 6 years.**

Signed

.....



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: R/2013/0375/F

Date Received: 21.08.2013

Proposal: Proposed house and garage on the farm for a family member.

Location: Lands 40m NW of 9 Wateresk Road Dundrum

Site Characteristics & Area Characteristics:

This site comprises existing dwelling No. 9 Wateresk Road, Dundrum, an outbuilding, a hard surfaced area (which are to the rear of No. 9) and a portion of a field to the north west of No. 9.

No. 9 is a bungalow with detached single storey garage. The southern boundary of the site around the proposed dwelling is currently undefined, the western boundary is defined by a mature boundary hedge, and the north eastern boundary is defined by timber fencing with trees to the inside. The site is relatively flat throughout. A laneway runs along the north eastern boundary of the site.

Site History:

R/2006/0550/O - Adj 9 Wateresk Road, Dundrum - Site for dwelling – Planning appeal dismissed.

R/2002/1607/O - Adjacent to No 9 Wateresk Road, Wateresk, Dundrum, Northern Ireland, BT33 ONL - New dwelling – Planning appeal dismissed.

R/2002/0455/O - Adj to 9 Wateresk Road, Dundrum - New dwelling – Withdrawn - 27.11.2002.

Planning Policies & Material Considerations:

This site is located within the Countryside and is within an Area of Constraint on Mineral Developments as defined in the Ards and Down Area Plan 2015.

The Strategic Planning Policy Statement 2015

Planning Policy Statement 3 – Access, Movement and Parking
Policy DES 4 Areas of Outstanding Natural Beauty
Planning Policy Statement 21 Sustainable Development in the Countryside –
Policies CTY 10 Dwellings on Farms,
CTY 13 Integration and Design of Buildings in the Countryside,
CTY 14 Rural Character and
CTY 16 Development Relying on Non-Mains Sewerage

Consultations:

DARD – Farm business id. (656864) has not been in existence for more than 6 years and the business has not claimed Single Farm Payment, Less Favoured Compensation Allowances or Agri Environment Schemes in the last 6 years.

Roads – No objections, conditions to be added.

NI Water – No objections, informative to be added.

NIEA Water Management Unit – No objections, informatives to be added.

Objections & Representations

6 neighbours notified and no objections received.

Representations from Sean Rogers MLA, Chris Hazard MLA and Margaret Ritchie MP in support of the application.

Consideration and Assessment:

P1C Form submitted with this application states that the name and address of the owner of the farm business is Mrs Mary O'Prey and she lives at 9 Wateresk Road, Dundrum. This form states that Mrs Mary O'Prey is also the applicant. It is stated on this form that the business number (656864) was allocated in May 2012 and that Single Farm Payment or other farm subsidies are submitted to DARD by the Applicant.

Information on P1C form and letter from DARD (provided by Applicant) dated 23rd March 2012 and signed by Martin Rafferty (DARD) states that single farm payment was claimed for FSN 3/99/141-1 from 2005-2011.

Letter from Applicant's Agent dated 24th September 2013 states the land had been taken in conacre 2005-2011 by Mr William Kerr, 15 Wateresk Road, Dundrum and Mr PJ Mooney, 124 Mill Road, Annalong has taken the land from 2012 to present and they have claimed single farm payments on the land.

Consultation response from DARD states that the Farm Business Id. has not been in existence for more than 6 years and the business has not claimed Single Farm Payment, Less Favoured Compensation Allowances or Agri Environment Schemes in the last 6 years.

The proposal includes the creation of a new laneway as adequate visibility splays cannot be achieved from the existing laneway. The proposed site layout illustrates that the existing hedgerow at the proposed new access will be removed to provide adequate visibility splay line and a new post and wire fence will be constructed behind splay line with native species hedgerow planted behind.

The proposed dwelling would be sited in part of a field to the north west of No. 9 behind an existing hedge, it is considered that the proposed dwelling would be visually linked or sited to cluster with an established group of buildings.

The proposed dwelling would be located 50m from the south eastern boundary of No. 11, 35m from No. 9 and the proposed garage would be 25m from the closest point of newly constructed dwelling to the north east. The proposed dwelling is one and a half storey design with a one and a half storey detached garage. The dwelling has a ridge height measuring 6.2m from ground level, is 17.2m long and a gable depth of 9.9m.

The proposed detached garage would have a ridge height measuring 5.8m from ground level, is 8m long and a gable depth of 5.5m.

The materials and finishes and design of the proposed dwelling are acceptable. No impacts on neighbouring residential amenity.

Proposed site layout illustrates that along the southern boundary of the site a new post and wire fence with double row of native species blackthorn hedgerow planted behind, augmented with native species trees Birch, Ash and Oak. All other existing boundaries are to be retained.

The proposed sewage treatment system would be located along the southern boundary of the site and would be 15m from existing dwellings and the foul and storm soakaways drain into the neighbouring field which are within the applicant's control as they are outlined in blue on the site location plan.

APPLICATION REVIEW

The application has been reviewed against Planning Policy Statement 21 CTY10 and the recently published Strategic Planning Policy Statement (SPPS).

The SPPS states in relation to Dwellings on farms: provision should be made for a dwelling house on an active and established farm business to accommodate those engaged in the farm business or other rural dwellers. The farm business must be currently active and have been established for a minimum of 6 years; no dwellings or development opportunities shall have been sold off or transferred from the farm holding within 10 years of the date of the application; and, the proposed dwelling must be visually linked or sited to cluster with an established group of buildings on the farm holding. Dwellings on farms must also comply with LDP policies regarding integration and rural character. A dwelling on a farm under this policy will only be acceptable once every 10 years.

Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. For example, 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 accorded 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.

DARD have confirmed that the Farm business ID has not been established for a period of 6 years. The farm business ID was allocated by DARD in May 2012. This is not a critical factor ie that the farm business number has not been in existence for 6 years. However the lands have been let out in conacre and SFP has been claimed by separate and different farm businesses, not the applicants.

SFP has been claimed on the lands by separate farm business owners from 2005-present. The holding comprises 2no fields one at Loughinisland, 0.37ha and one at Wateresk Road, 0.67ha. The lands at Wateresk is where the farm dwelling is proposed.

Supporting information has been submitted by the applicant in Jan 2014 in an attempt to demonstrate the 6 years active farming requirement of policy. This included,

- Receipts for hedge cutting for Mrs O'Prey for 2005/06/07/08/09/10/12 & 2013. Some are referenced to 9 Wateresk Rd, but not all. £25/30 per bill.
- Non-specific purchase receipts from JB Hardware and DC Wholesale electrical.
- Tool centre invoice for an excavator for Mr Tony O'Prey at Wateresk Rd dated 2004/2001.
- Kane bros Nursery receipt for 28no Castlewellan Gold, no name or address given dated 2007.
- Kane bros Nursery receipt for quick thorn hedge £25, no name or address given dated 2008.
- William Kirkwood timber supplies for fencing posts etc, non-specific, no dates or address.
- William Kirkwood timber supplies for fencing posts, no address, dated 2013.
- John Shilliday timber and hardware, non-specific receipt for cement, sand, concrete head and cement heads.
- CE Stevenson & Sons receipts for blinding and clean stones/ready mix concrete for 2001/02/03 invoiced to 9 Wateresk Road.
- RMJ Contracts receipt for maintenance to field fencing, supply and fit new fencing posts and barbwire and sheep wire invoiced to 9 Wateresk Road dated 2011.
- RMJ Contracts receipt for maintenance to field fencing, supply and fit new fencing posts and barbwire and sheep wire and spreading of blinding invoiced to 9 Wateresk Road dated 2006.
- RMJ Contracts receipt for digger work on farmland, removal of large stones in ground, maintenance to field fencing, supply and fit of new 14ft field gate. invoiced to 9 Wateresk Road dated 2004.
- RMJ Contracts receipt for digger work on farmland, draining field and supply of 100mt of 4 inch land drainage pipe invoiced to 9 Wateresk Road dated 2001.

This information does not indicate clear farming activity for a continuous period for the past 6 years. The majority of the invoices are non-specific to the site, non-specific to any works carried out on the farm holding and are same are dated in the early 2000's.

On the basis of the above it has not been demonstrated that the farm business is currently active and established for a period of 6 years.

No supporting information has been submitted on the application since Jan 2014.

The applicant has made contact with the case officer on 24 and 25 April 2016 disagreeing with the opinion to Refuse and stating that medical evidence was forwarded through Cllr Laura Devlin to Minister Durkin following a meeting in March 2015. No such medical evidence was presented to the planning authority for consideration.

To conclude, it is considered the principle of a farm dwelling is not acceptable for the reasons outlined below.

Recommendation:

Refusal

Refusal Reason

1. The proposal is contrary to the SPPS and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business is currently active and has been established for a period of at least 6 years.

Planning Application R/2013/0375/F

Synopsis

- Application lodged 21st August 2013
- This application has previously been to the delegated committee on 26th April 2016, at which the council unanimously voted to approve the application. Planning advisors asked Council to seek legal advice prior to issuing approval. We have been waiting for 2 ½ years for this advice. Planning and Council have been notified of this advice, but having put in an FOI request for this information, I have been told that this information cannot be disclosed to me. (See attached email). The planning reason for refusal remains the same, and all details of the application remain the same, in that this application should be considered an exception case in line with Mr Attwoods ministerial statement, as it had previously been considered at the last delegated committee meeting. Nothing has changed.
- It has been confirmed by DARD in correspondence dated 23rd March 2012, that single farm payments have been claimed on the land from 2005 to 2011.
- Although the applicant was not been claiming single farm payments for the full period of 6 years from the date of the application, we have provided receipts and written evidence that the applicant has personally been maintaining the land in good agricultural condition, and therefore would have been entitled to claim single farm payments for this period in full. These receipts have been fully catalogued from September 2001 to August 2013 when the application was lodged, and total over £5,000.
- There are exceptional circumstances in this particular application, in that the applicants spouse, as the result of the loss of a limb, has been unable to actively farm the land himself since his sons have grown up and moved from home in the mid-90's, and has since had to let the land in conacre and continues to maintained the condition of his land and paid for the same.

In previous correspondence dated 13th December 2013, I have referred to planning appeals 2009/A0297 and 2010/A0012 which were approved because the applicant could prove that he maintained the farmland in good agricultural condition, even though he let his farm out in conacre and had not received Single Farm Payments for six years. In paragraph 4 of planning appeal 2009/A0297 it states that;

"In such cases as this the requirement to provide a farm's business number and other evidence to prove active farming over that period is in the Justification and Amplification, not in policy CTY10 itself, which the appellant considers must take precedence. It is accepted on his behalf that an ID number makes it easy for Planning Service to recognise that a farm is active but reference is made to the many different circumstances which the

numbers cover, and it is argued that their main purpose is to enable businesses to claim CAP subsidies."

Paragraph 7 of planning appeal 2010/A0012 states that;

"The policy does not require the applicant to have been in possession of an ID number for the full duration of the 6 year period in order to prove active farming over that time. Neither does the policy require the applicant to claim single farm payment subsidies over that period."

- We would ask the Council to consider a more current planning appeal, reference 2014/A0133, which is similar in some respects to this application. (Copy enclosed).

Paragraph 7 of planning appeal 2014/A0133 states that;

"Taking into account the Justification and Amplification to Policy CTY10, an applicant only has to prove that the farm is active and established, not that he has been actively farming it. Paragraph 5.37 of the Justification and Amplification states that there is a continuing need for new dwellings on farms to accommodate both those engaged in the farm business and other rural dwellers (my emphasis). Accordingly, one does not need to be a farmer to potentially avail of a house on an active and established farm."

- The O'Preys hope to achieve a planning approval for their son, who intends to move back to the home farm with his family, and to start farming the land himself.
- We feel, given the above information, that greater flexibility should be shown by Planning in this instance, as promoted in the Ministerial Statement of July 2013, in which consistency and flexibility were mentioned on several occasions in relation to development in the countryside. Based on medical evidence, this application should be looked on in a more positive light.
- Finally, in relation to the last point in the most current committee report dated 27th April 2016, medical evidence of Mr O'Preys condition was supplied through the local SDLP office in Newcastle, direct to Minister Durkin's office in Stormont. We would have assumed that this evidence would have been returned to the Planning Office with the application file. If this was not the case, I enclose a copy of the letter from Dr O Hilliard MRCP for your information and inclusion in the file. I trust this will have some bearing on the outcome of this application.

From: suzanne.trainor@nmandd.org
Subject: AD.FOI/1512
Date: 9 August 2018 at 08:48
To: barry@hillenarchitects.com
Bcc:

Dear Mr Hillen

I refer to the above matter and write further to your request for information to Newry, Mourne and Down District Council's Planning department dated 26/07/2018.

Under the Freedom of Information Act 2000 you have requested information from Newry, Mourne and Down District Council in relation to Legal advice received by Planning regarding the definition of active farmer. I confirm your request has now been processed as a request under the terms of the Environmental Information Regulations 2004 and, accordingly, please see Council's response below.

Newry, Mourne and Down District Council holds Senior Counsel's Opinion in the matter of PPS 21, Policy CTY 10, dated 23 February 2018, received by the Planning Department on 5 March 2018.

The Opinion was obtained from Senior Counsel for the purpose of assisting Planning Committee Members in considering and determining planning applications relevant to Policy CTY 10 of PPS 21. Council considers the Opinion attracts legal professional privilege as legal advice privilege.

It is considered that a disclosure of information which is subject to legal professional privilege would have an adverse effect on the course of justice through a weakening of that doctrine if information subject to privilege is routinely disclosed under public access to information legislation. This may have the effect of reducing confidence that legal advice will remain private and may inhibit discussions between Council and their solicitors/barristers. Disclosure would adversely affect the Council's ability to defend itself should it be faced with a legal challenge in connection to any planning application to which Policy CTY 10 of PPS 21 is relevant.

On that basis, Council is engaging exception Regulation 12(5)(b) of the Environmental Information Regulations in that disclosure would adversely affect the course of justice.

This exception is subject to the public interest test. Council recognises the public interest in it being transparent and open in its decision making and how planning determinations are made. There is also a strong public interest in ensuring Council can seek and obtain legal advice in confidence. Council considers the public interest in maintaining the exception outweighs the public interest in disclosure so as to ensure the confidentiality of legal professional privilege is not undermined.

Therefore Council has engaged Regulation 12(5)(b) and is withholding Senior Counsel's Opinion.

Should you be unhappy with our response in this matter you may request an Internal Review of our response and you can contact Mrs. Alison Robb, Assistant Director of Administration (alison.robb@nmandd.org). In the event you are unhappy with the outcome of any Internal Review conducted by the Council you may apply to the Information Commissioner's Office (ICO) for a review of our response. Please note that the ICO generally expects Internal Reviews to be completed prior to reviewing the decisions of public bodies. For further information in relation to Freedom of Information I would direct you to the website of the Information Commissioner at: www.ico.org.uk.

Regards

Suzanne Trainor
Information Officer
Comhairle Ceantair an Iúir Mhúm agus an Dúin
Newry, Mourne and Down District Council
Downshire Civic Centre
Ardglass Road
Downpatrick
BT30 6GQ

Council: 0300 013 2233
Planning: 0300 200 7830

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ITEM NO	2				
APPLIC NO	LA07/2016/0983/F		Full	DATE VALID	22/07/2016
COUNCIL OPINION	APPROVAL				
APPLICANT	Kathleen Dobbin 30 Bann Road Castlewellan			AGENT	Ewart Davis 14 Killynure Avenue Carryduff Belfast BT8 8ED 07969919145; 028 9081 3084
LOCATION	8 Grove Road Annalong BT34 4XB				
PROPOSAL	Replacement Dwelling (Amended plans)				
REPRESENTATIONS	Obj Letters	SUP Letters	Obj Petitions	SUP Petitions	
	18	0	0	0	
			Addresses	Signature	Addresses
			0	s 0	Signatures 0



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

Application Reference: LA07/2016/0983/F

Date Received: 22/07/2016

Proposal: Replacement Dwelling

Location: 8 Grove Road, Annalong, BT34 4XB

Site Characteristics & Area Characteristics:

The application site contains a single storey dwelling to be replaced located at the junction between Grove Road and Turlough's Hill, c.220m to the west of the settlement limit of Annalong. Along the front elevation the dwelling contains a doorway and windows either side with window frames intact, there is a chimney present each side of the roof. All external walls of the dwelling are substantially intact. The site is overgrown and vegetation has begun to grow over the rear elevation onto the roof. There is an existing mature sycamore tree to the east of the dwelling.

The site can be accessed via a pedestrian walkway to the east of the dwelling; there is no existing vehicular access to the site. To the north of the dwelling there appears to be the remains of an outbuilding with some pieced of a corrugated metal roof remaining.

To the north west of the site, No 3 Turloughs Hill is a one and half storey/ two bay farmhouse which is also a Grade B2 Listed Building (HB Ref No: HB16/01/067). The site is located outside any defined settlement limits and located within an Area of Outstanding Natural Beauty.



Dwelling to be Replaced

Planning Policies & Material Considerations:

This application will be assessed under the following planning policies:

- Strategic Planning Policy Statement for Northern Ireland
- Banbridge/ Newry and Mourne Area Plan (2015)
- Planning Policy Statement 21- Sustainable Development in the Countryside
- Planning Policy Statement 3- Access, Movement and Parking
- Planning Policy Statement 6- Planning, Archaeology and the Built Heritage.
- Planning Policy Statement 2- Natural Heritage

Site History:

P/2007/1473/F- Erection of Replacement Dwelling and Garage at 8 Grove Road, Annalong. Granted on 16th July 2008 with a one year time restriction. The dwelling approved was sited facing south east towards Grove Road. The dwelling had a ridge height of 5.5m with a projection along the front elevation.

P/2004/0087/O- Site for Replacement Dwelling and Garage at 8 Grove Road, Annalong. Granted 8th July 2004. Conditions were imposed including a ridge height restriction of 5.5m and a siting condition in the area of the existing dwelling. Following this approval a Reserved Matters application was not submitted.

Consultations:

NI Water- Generic response provided

Transport NI- Following several consultations and amendments to the proposed access, Transport NI have no objections to the proposal and have provided conditions.

Environmental Health- No objections to the proposal. Recommended DAERA Water Management Unit are consulted.

Historic Environment Division- Throughout the consultation process HED requested that any replacement dwelling permitted to be located to the east and north easterly reach of the site, with no part further west than that existing as the listed building's setting is uninterrupted to the south, clearly viewed on approach from that direction. It was also requested that the access was relocated in order to preserve mature trees on site, however from my site visit of 14th May 2018 it was evident that mature trees on the site have been removed and the Agent's were requested to remove this label from the site layout plan.

HED acknowledged receipt of amended drawings No.02 Rev 6 and No.03 Rev 5 and advises that the proposal satisfies SPPS (NI) 6.12 & Policy BH 11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage, with requested conditions

NIEA- Water Management Unit has considered the potential impacts of the proposed development on the surface water environment and on the basis of the information provided is content strictly subject to conditions and subject to the applicant noting the advice contained in the explanatory note.

Objections & Representations

Five neighbours were notified on 26th July 2016 and the application was advertised on 3rd August 2016. 19 objection letters were received which will be discussed below. Following receipt of amended plans neighbours and objectors were notified on 13th April 2018 and 20th June 2018, the application was also readvertised on 25th April 2018 and 4th July 2018. No further letters of objections were received.

Objections which were received raised the following issues:

- A good site splay is a must on this road and badly needs attention before more accidents.
- 17 objections related to the removal of mature tree which forms part of the character of Grove Road. This tree joins with the same type of tree belonging to 7 Grove Road and has created an arch high above the road. To remove this tree would spoil the unique feature which enhances the local countryside and scenery.
- The proposed dwelling is of modern design and would not blend in with the surrounding buildings
- Proposed dwelling located in front of 3 Turlough's Hill and would be detrimental to Mourne Heritage, requested Historic Buildings are notified
- Request of more information on regulations for sewage pipes and septic tanks
- Request that mature trees and shrubs within the site are maintained.

One letter of response was sent from the previous case officer to 3 Turlough's Hill addressing the points raised in the objection. The Council's Tree Preservation Officer inspected the site on 12th August 2016 and confirmed that all but one of the trees on site has been removed. None of the trees were subject to a Tree Preservation Order or any other means of Planning Protection but it will be conditioned that the remaining tree is retained.

Transport NI and HED have been consulted on the application and both are content with regards to splays and the design of the dwelling.

Strategic Planning Policy Statement for Northern Ireland

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 accorded greater weight in the assessment of individual planning applications. However, the SPPS does not introduce a change of policy direction nor provide a policy clarification in respect of proposals for residential development in the countryside. Consequently the relevant policy context is provided by the retained Planning Policy Statement 21- Sustainable Development in the Countryside. Policy CTY1 of PPS21 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.

PPS21- Sustainable Development in the Countryside

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 states that planning permission will be granted for a replacement dwelling in accordance with Policy CTY3.

In order to comply with Policy CTY3, applications must meet the following criteria:

- Dwelling to be replaced must exhibit the essential characteristics of a dwelling (as a minimum all external structural walls substantially intact)
- Proposed dwelling must be sited within the established curtilage of the existing building (Curtilage is defined as the immediate, usually defined and enclosed area surrounding an existing or former dwelling house).
- The overall size of the new dwelling must integrate into the surrounding landscape and have no greater visual impact than the existing building.
- The design of the replacement dwelling should be of a high quality appropriate to its rural setting
- All necessary services must be available or can be provided without significant adverse impact on the environment or character of the locality
- Access to the public road must not prejudice road safety or significantly inconvenience the flow of traffic.

Applying this criterion to this planning application it is considered:

- The dwelling has all external walls substantially intact. There are two chimneys and windows are present and there are two previous approvals for replacement dwellings on the site.
- The curtilage of the dwelling is overgrown but the replacement dwelling will be partly located on the footprint of the original dwelling. The proposal has been sited to ensure that views of the listed building to the north west are not interrupted as requested by HED.

- The dwelling proposed is one and a half storeys with a ridge height of 6.6m. The plans submitted initially were of similar design to that approved under P/2007/1473/F, however following HED consultations the proposal has been redesigned and I consider the design to be more traditional and a betterment of that originally approved under P/2007/1473/F.

Although the proposal is of a greater scale than the dwelling to be replaced I appreciate that there has been a request to ensure the dwelling is not sited in front of 3 Turlough's Hill. The elevation showing the proposal in context with 3 Turlough's Hill shows the proposal will not appear as prominent or have a greater visual impact than the existing dwelling when viewed alongside surrounding dwellings.

- As previously stated, the design is considered to be a betterment than the previous approval on site. The design is traditional one and half storey dwelling with two dormers located on the front elevation. The scale and massing of the proposal is considered to be acceptable in the context of the surrounding area.
- All necessary services are available or can be provided without significant adverse impact on the environment or character of the locality
- Transport NI have been consulted on the application and are content that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic, subject to conditions.

Policy CTY13

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 and is of an appropriate design. As previously stated the proposed dwelling will not appear as prominent and will integrate with the surroundings. Planting is proposed as part of this application and it will be conditioned that the existing mature tree on site is retained. The design of the dwelling is traditional and of fairly simple form. The proposal is considered to be in accordance with Policy CTY13.

Policy CTY14

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 an area. The dwelling proposal will not appear as unduly prominent and will respect the traditional pattern in the area. The proposal will not create or add to a ribbon of development. The proposal is considered to be in accordance with Policy CTY14.

Planning Policy Statement 3- Access, Movement and Parking

Transport NI have been consulted on the application and have raised no objections. The proposal is considered to be in accordance with Policy AMP2 as it will not prejudice road safety or significantly inconvenience the flow of traffic.

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

Given the proximity of the listed building at 3 Turlough's Hill the proposal must be considered under Policy BH11- Development affecting the setting of a listed building. HED have been consulted on the application and are content that the proposal respects the listed building in terms of scale, height, massing and alignment. Conditions regarding materials have been suggested and which will be included on any approval. The proposal is considered to comply with Policy BH11.

Planning Policy Statement 2- Natural Heritage

The application site is located within an Area of Outstanding Natural Beauty and as such Policy NH6 is applicable. The proposed siting, scale and design is considered appropriate for the area and to be in accordance with Policy NH6.

Recommendation:

Approval is recommended.

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 vehicular access, including visibility splays and forward sight distance shall be provided in accordance with Drg No 02rev5 plan bearing the date stamped 14-06-18 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.

3. The access gradient(s) to the dwelling(s) hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

4. Materials shall be
 - blue/grey natural slate roof
 - rendered walls
 - hardwood painted sliding sash windows
 - metal rainwater goods
 - stone walling shall be traditional Mourne drystone construction with local and reclaimed stone

Reason: to ensure the works proposed make use of traditional or sympathetic building materials and techniques.

5. Prior to commencement of development the applicant shall submit a copy of a consent to discharge for the proposed site, to be agreed in writing by the Planning Authority.

Reason: To protect the environment and to comply with CTY 16 of Planning Policy Statement 21- Sustainable Development in the Countryside.

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 Practice. The works shall be carried out prior to the occupation of any part of the dwelling.

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

7. The existing mature tree on site located along the boundary indicated in green, on approved drawing ref 02 (REV6) date stamped received 27th July 2018 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: In the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

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.

Informatives

1. EXISTING WATER AND SEWER INFRASTRUCTURE

- The onus is on the householder/developer to find out if there is existing water and sewer infrastructure within their property.
- It is an offence under Article 236 of the Water and Sewerage Services (Northern Ireland) Order 2006, to build over or near watermains, sewers, pipes and associated works owned and maintained by Northern Ireland Water unless with the prior consent by NI Water.
- House owners and developers should obtain details of existing infrastructure from NI Water by requesting a copy of the water and sewer records. Copies of our records are supplied under Articles 257 and 258 of the 2006 Order. There is a nominal charge for this service.
- Where existing water and sewer infrastructure is located within a property and proposed development of the site interferes with the public watermains, sewers and associated works, the householder/developer may make a Notice under Article 247 of the 2006 Order to have the public infrastructure diverted, realigned. Each diversion and realignment request is considered on its own merits and approval is at the discretion of NI Water. The applicant is required to meet any financial conditions for realignment or diversion of the water and sewer infrastructure, including full costs, company overheads, etc.
- It is the responsibility of the house builder/builder/developer to establish if existing public watermains, foul/storm sewers, together with appropriate waste water treatment facilities, have adequate capacity to serve the proposal. To establish how best any development may be served by existing public water and sewerage infrastructure, a Pre Development Enquiry (PDE) would require to be submitted. There is a charge for this service.

- If your proposed development is not near a public watermain, foul sewer or surface water sewer and you cannot discharge your surface water to a natural watercourse you may wish to consider making a requisition Notice asking NI Water to extend the public watermain or foul/storm sewer system to service your development. This can be done by requisitioning a watermain under Article 76 of the 2006 Order and sewers under Article 154 of the 2006 Order. House builders and developers may have to contribute to the cost of extending watermains and sewers.

 - Septic Tank emptying. The applicant must provide a hard standing area with a 3.5m wide access capable of supporting the weight of a sludge tanker within 30 metres of the septic tank.

 - If you wish to find out more about what you can or cannot do if there is existing water or sewer infrastructure in, over or under your property, or you want to find out how your proposed development can be serviced contact NI Water staff on the Developers Services Business Line 08458770002 and ask for the Developers Services Co-Ordination Team. Copies of our Application Forms can be obtained by contact the Developers Services Business Line 08458770002 or by downloading from our web page www.niwater.com/servicesfordevelopers.asp and Forms.
2. Notwithstanding the terms and conditions of the Department of Environment's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Regional Development's consent before any work is commenced which involve making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the Department for Infrastructure Section Engineer whose address is 1 Cecil Street Newry. A monetary deposit will be required to cover works on the public road.

it is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.

3. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

- 4. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

Case Officer Signature: <i>Erine Hart</i>
Date: <i>29/08/18</i>
Appointed Officer Signature: 
Date: <i>31/8/18</i>

ITEM NO	5				
APPLIC NO	LA07/2017/0449/F	Full	DATE VALID	23/03/2017	
COUNCIL OPINION	REFUSAL				
APPLICANT	Mr Tony Cunningham 52 Upper Dromore Road Warrenpoint BT34 3PN		AGENT	Cole Partnership 12A Duke Street Warrenpoint BT34 3JY 02841753679	
LOCATION	Vacant ground between Dromore Heights and Cloughmore View and east of No. 4 Dromore Heights Upper Dromore Road Warrenpoint				
PROPOSAL	Proposed 2 No. Dwellings (further amendments since previous letter of 30th April 2018)				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	12	0	0		0
			Addresses	Signature	Adresse
			0	s 0	s 0
					Signatures 0

- The proposal is contrary to the SPPS and Policy QD1 of the Department's Planning Policy Statement 7;

'Quality Residential Environments' in that it has not been demonstrated that the development would create a quality and sustainable residential environment. The proposed development fails to meet the requirements of QD1 in that it has not been shown:

(a) that the development respects the surrounding context and is appropriate to the character of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;

(c) that adequate provision is made for landscaped areas as an integral part of the development;

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

(h) that the design and layout will not cause/create unacceptable adverse impacts on proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

2. The proposed development is contrary to the SPPS and Policy LC1 of the Addendum to Planning Policy Statement 7 on Safeguarding the Character of Residential Areas, (b) in that:

The proposed pattern of development is not in keeping with the overall character and environmental quality of the established residential area.

3. The proposed development is contrary to the SPPS and Planning Control Principle 1 of PPS 12, in that the proposed form, scale, massing and layout do not respect local character and environmental quality.

4. The proposed development is contrary to the SPPS and Planning Control Principle 2 of PPS 12, in that the proposed development does not represent a high quality of design, layout and landscaping.

5. The proposed development is contrary to the SPPS and Policy NH 6 of Planning Policy Statement 2 (PPS 2) in that the design, size and scale is not appropriate to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality and does not respect local housing layout and local materials.

6. The proposal is contrary to the SPPS and Policy DES2 of the Planning Strategy for Rural Northern Ireland in that the development would, if permitted, be detrimental to the townscape of Warrenpoint and would not be sensitive to the character of the area surrounding the site with regard to design, scale and use of materials.



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**Newry, Mourne
and Down**

District Council

ADDENDUM – revised plans submitted 4th September 2018 - reduced scheme

Application Reference: LA07/2017/0449/F

Date Received: 23rd March 2017

Proposal: Proposed 2 No. Dwellings

Location: Vacant ground between Dromore Heights and Cloughmore View and east of No. 4 Dromore Heights, Upper Dromore Road, Warrenpoint

Site Characteristics & Area Characteristics:

The site consists of a vacant plot of land elevated above the Upper Dromore Road and between Cloughmore View and Dromore Heights. Access can currently only be gained to the site via Dromore Heights. The Upper Dromore Road is a busy route into and out of Warrenpoint and along this road, dwellings/buildings predominantly front onto the road. Within Cloughmore View and Dromore Heights, dwellings also front onto the roads and are predominantly detached and single storey (chalet bungalows).





The site is currently rough and invaded with scrub vegetation. It is bound along the south western perimeter with no.4 Dromore Heights by conifers and a boundary wall. The site slopes gently away from the south western boundary towards the Upper Dromore Road however before it meets the 3 surrounding roads a steep vegetated embankment exists along these boundaries as seen in the images above.



Site History:

Site included in application for dwelling at Upper Dromore Road under P/1975/0997 – approved.

Land opposite/south of application site known – approval for 2 bungalows under P/1992/0817 at 44 Upper Dromore Road – not built.

An objection letter quotes P/1981/0337 as planning history for the application site however this reference relates planning history on the site of the current 6 Dromore Heights.

Planning Policies & Material Considerations:

RDS 2035

Banbridge Newry and Mourne Area Plan 2015

SPPS – Strategic Planning Policy Statement

PPS 2 – Natural Heritage

PPS 3 – Access, Movement and Parking

PPS 7 – Quality Residential Environments

Addendum to PPS 7 – Safeguarding the Character of Established Residential Areas

PPS 12 – Housing in Settlement

Planning Strategy for Rural Northern Ireland – DES 2 – Townscape

Advice and guidance:

Creating Places

DCAN 8 – Housing in Existing Urban Areas

Consultations:

DFI Roads – In terms of PPS 3 Access Movement and Parking and the associated DCAN 15, DFI Roads have expressed no objections in principle subject to conditions.

NIW – Available capacity at WWTW, public water supply within 20m, foul Sewer within 20m and Surface water sewer within 20m – Consultation with NIW by means of a Predevelopment Enquiry required.

Environmental Health – no objections – advise the use of energy efficient materials and renewable energy.

Loughs Agency – no objections in principle.

Objections & Representations

6 neighbours originally notified of proposal and representations made from 9 different addresses. All of those who made representations and those originally neighbour notified were also notified of all amendments received. The proposal was advertised in 3 local papers on the 5th and 7th of April 2017 and again on 7th, 9th and 10th May 2018.

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 within the defined settlement of Warrenpoint adjacent to the Upper Dromore Road.

PPS 7 - QD1

Planning permission will be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. There are 9 criterions listed to conform to.

- (a) *The development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscape and hard surfaced area:-* the original submission involved 4 dwellings (2 blocks of semi-detached units backing onto each other) however their design and form were deemed be out of character, did not respect the existing density and was overdevelopment of the site. A reduction to 2 appropriately designed dwellings was then sought to ensure the proposal sympathised with the existing detached character of the area and respected the density. This further amended scheme however is still unsatisfactory and represents overdevelopment of the site in that the proposed dwellings' footprints are too big for their curtilages and in turn the scale, proportions, massing and appearance of the proposed buildings is out of character and incompatible with the surrounding development and density presently in Cloughmore View and Dromore Heights. Part of the kitchen area has been cut off each dwelling to reduce the footprint by 19.2sqm. The amended footprint is still excessive for this site and leaves the back to back distance between the 2 dwellings at only **11m** minimum (13m maximum) with the finished floor level of dwelling facing onto Dromore Heights 1m higher than the other. This therefore would create other negative planning issues which will be discussed in detail below.



- (b) *Features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development:-* No archaeological, built heritage or protected landscape features will be affected.
- (c) *Adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area:-* The proposed private amenity space provided is above the minimum 70sqm advised within Creating Places with 112sqm and 123 sqm proposed. A 1.8m high close boarded fence is

proposed along the rear boundary between the 2 proposed houses reducing to 1.2m towards the Upper Dromore Road side. Limited details were originally provided regarding proposed landscaping including tree/shrub planting, finish to hard surfaces, wall details. The amended site layout plan now indicates hedging along the boundary with Upper Dromore Road, grassed areas, tarmac to driveways and stone walls/gabions. No elevation details of the stone walls or fencing indicated to the front of the dwellings has however been provided.

- (d) *Adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development:-* Neighbourhood facilities are not required due to the small scale nature of this proposal;
- (e) *A movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures:-* The site lies adjacent to one of the main arterial routes into and out of Warrenpoint Road which is also a bus route and has footpaths on both sides of the road. This proposal is also acceptable in meeting the needs of people whose mobility is impaired and further measures will be taken and secured through any building control application. No rights of way are to my knowledge hindered and in terms of traffic calming the dwellings access onto existing established housing developments – Dromore Heights and Cloughmore View at a point where traffic is slowing down to join Upper Dromore Road or come off it.
- (f) *Adequate and appropriate provision is made for parking:-* 2 car parking spaces have been provided for internally with cars reversing onto road. As the proposed dwellings have 4 bedrooms and detached, 3 in-curtilage car parking spaces are required. The amended drawings show the 3rd parking space to be within the garage in order to meet this criterion.
- (g) *The design of the development draws upon the best local traditions of form, materials and detailing:-* The actual design of the dwellings are acceptable and would not be out of character with this section of Cloughmore View or Dromore Heights however for them to work positively their plot sizes would need to be larger. In terms of materials, a smooth render facade with natural grey granite in parts is proposed however; the grey granite is not a common material in these particular estates but rather render incorporated with red brick is more of a comparable material mixture. The roof materials of the proposed dwellings involve grey concrete roof tiles, black uPVC guttering and rwps, black uPVC fascia/white soffit pvc, black textured pvc windows. A stone gabion retaining wall 1.2m high is proposed along south western perimeter with a grassed bank on top. The majority of the proposed materials are acceptable however I'm not convinced that the granite stone still shown on the amended plans date stamped 4th September 2018 will fit with the existing character of the area.
- (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:-* Due to the sloping nature of the landform from Cloughmore View and Dromore Heights towards the Upper Dromore Road, the proposed site sits at a lower ground level than the existing dwelling at 4 Dromore Heights. The finished floor level (ffl) of the proposed dwelling facing onto Cloughmore View

is 52.40 whereas the ground level within the grounds of no.4 Dromore Heights is 55.92. That's a difference of 3 ½ m. There is also a retaining wall with coniferous hedging between the site and no.4 which would offer screening and privacy protection. The gable window serving bedroom 4 of the dwelling fronting onto Cloughmore View would not overlook the adjacent dwelling due to the existing vegetation and lower ground level of the proposed site. With regard to the south western elevation of the dwelling fronting onto Dromore Heights, there would be minimal overlooking to no.4 also and this area is visible from public view along the street and therefore not private.

The rear first floor windows have been removed from the proposed house types to overcome overlooking into each other. A new 1.8m high close boarded fence is proposed to the rear of the new dwellings to protect the privacy of the occupants however due to the 1m difference in finished floor level between the proposed dwellings and the minimum separation distance of 11m between the properties, I still have concerns regarding overlooking as the 1.8m high fence will be insufficient to offer protection of private amenity. The concerns relating to the relationship of the proposed dwellings with each other still remains. The amended drawings removed part of the kitchen area to leave a minimum of a separation distance of 11m and a maximum of 13m between the properties however; this is still well below the creating places minimum which is set at 20m for green-field sites and in low-density developments. Although some reduction in the minimum 20m back to back distance may be accommodated at this site given its location, this is dependent on a suitable design and overall footprint/layout. The closeness of the houses to each other would still create a dominant/overbearing impact as their proposed height is 6.4m above ground level and their position could also cast shadows on each other. The closeness of the proposed houses backing onto to each other could also create noise issues for the proposed residents. The proposed scheme would not overlook any other properties on Dromore Heights, Cloughmore View, Upper Dromore Road – front gardens open to public view are not private spaces - and there is a sufficient distance between the site and surrounding property to not overshadow existing properties either.

- (i) *The development is designed to deter crime and promote personal safety:-* The design and layout of the dwellings should deter crime and promote personal safety as houses front onto the road and driveways.

PPS 7 Addendum – Safeguarding the Character of Established Residential Areas - Policy LC1 – Protecting Local Character, Environmental Quality and Residential Amenity

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 QD1 of PPS 7, and all the additional criteria set out are met:

- (a) *The proposed density is not significantly higher than that found in the established residential area :-* The addition of 2 suitably designed dwellings on this site would not upset the existing density found within this existing residential area;
- (b) *The pattern of development is in keeping with the overall character and environmental quality of the established residential area:-* the proposal to site 2 dwellings onto the site back to back, with dual frontage and each facing their

respective estate road is acceptable however, it's the scale/design of the proposal which has been submitted is still unacceptable; and

- (c) All dwelling units and apartments are built to a size not less than those set out in Annex A:- the floor space of the proposed dwellings is well above the minimum floor space requirement set for a 4 bed house.

PPS 12 – Housing in Settlements

Para 81 of PPS 2 states that the Planning Control Principles (PCP) should be taken into account in the preparation of development plans and are also material to decision on individual planning applications and appeals for housing development in settlements. They support and should be applied in conjunction with other relevant planning policy and guidance including PPS 7, PPS 13, Creating Places, DCAN 8 and new current policy the SPPS.

PCP1 (of PPS 12) – Increased Housing Density without Town Cramming

This policy encourages increased density of housing development in towns and city centres and other locations which benefit from high accessibility to public transport facilities however great care should be taken to ensure that local character, environmental quality and amenity are not significantly eroded. Respect should also be paid towards the form, scale, massing and layout of the new development and that of adjacent housing and safeguard the privacy of existing residents.

In the case of this application, the site lies towards the outskirts of Warrenpoint, on a public transport route with an existing small shopping complex in close proximity. The existing character involves detached dwellings both single storey and storey and a half on small to medium sized plots and fronting onto the estate roads. The proposed development of 2 dwellings would not disrespect the current density however; the proposal still does not fully comply with the general principles of PCP1. Although making use of a vacant plot of land within a well-established residential area, the amended proposal still represents overdevelopment in terms of the scale and if approved would hinder the existing character of the area and create other amenity issues for the proposed occupants.

PCP 2 of PPS 12 – Good Design

The design proposed for the 2 dwellings as discussed previously represents overdevelopment of the site and would adversely affect the existing character of the area.

PP3 Access, Movement and Parking

DFI Roads has no objections to the proposal.

Seven objections (7 different addresses) were received with regard to the original 4 dwelling proposal raising issues such as:

- Increased traffic and Upper Dromore Road already a busy road given existing high school and retail/proposed retail units;
- Car parking – over spill/limited car parking proposed, and related issues regarding vehicular and pedestrian safety;
- Style of house/density not in keeping with established character;
- If approved would set a poor precedence;
- Overshadow/loss of light;

- Overlook.

A further 3 objections were received following the submission of amended drawings in April 2018 including a new objector. The issues raised following the amended plans include:

- Road safety/visibility;
- Limited car parking in curtilage which would result in overspill onto Cloughmore View/Dromore Heights and in turn put pedestrians and other road users at risk;
- Proposal not in keeping with the character of Dromore Heights or Cloughmore View – single dwellings with large gardens and ample parking – new proposal density still too high and is overdevelopment of the site;
- Overlooking;
- Previous planning for single dwelling only;
- Cold water mains apparently feeds through site;
- If approved development would set a poor precedent.

A number of these concerns have already been covered through the assessment under QD1 of PPS 7. The proposal has been reduced from 4 dwellings to 2. A slight increase in traffic is expected due to 2 new dwellings being proposed however, the site is located within the urban area where new housing is promoted subject to compliance with planning policy. DFI Roads is satisfied with the proposed access arrangements and location. With regard to the cold water main issue, NIW were consulted and have not raised any objections to the proposal however, any approval on the site and works to move this main is an issue between the developer/land owner and NIW.

Recommendation:

Refusal is recommended.

Refusal Reasons/ Conditions:

1. The proposal is contrary to the SPPS (Strategic Planning Policy Statement) and Policy QD1 of the Department's Planning Policy Statement 7: 'Quality Residential Environments' in that it has not been demonstrated that the development would create a quality and sustainable residential environment. The proposed development fails to meet the requirements of QD1 in that it has not been shown:

(a) that the development respects the surrounding context and is appropriate to the character of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;

(c) That adequate provision is made for landscaped areas as an integral part of the development;

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

(h) That the design and layout will not cause/create unacceptable adverse impacts on proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

2. The proposed development is contrary to the SPPS and Policy LC1 of the Addendum to Planning Policy Statement 7 on Safeguarding the Character of Residential Areas, (b) in that:
The proposed pattern of development is not in keeping with the overall character and environmental quality of the established residential area.
3. The proposed development is contrary to the SPPS and Planning Control Principle 1 of PPS 12, in that the proposed form, scale, massing and layout do not respect local character and environmental quality.
4. The proposed development is contrary to the SPPS and Planning Control Principle 2 of PPS 12, in that the proposed development does not represent a high quality of design, layout and landscaping.
5. The proposed development is contrary to the SPPS and Policy NH 6 of Planning Policy Statement 2 (PPS 2) in that the design, size and scale is not appropriate to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality and does not respect local housing layout and local materials.
6. The proposal is contrary to the SPPS and Policy DES2 of the Planning Strategy for Rural Northern Ireland in that the development would, if permitted, be detrimental to the townscape of Warrenpoint and would not be sensitive to the character of the area surrounding the site with regard to design, scale and use of materials.

Case Officer Signature:
Date:
Authorised Officer Signature:
Date:



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0449/F

Date Received: 23rd March 2017

Proposal: Proposed 2 No. Dwellings

Location: Vacant ground between Dromore Heights and Cloughmore View and east of No. 4 Dromore Heights, Upper Dromore Road, Warrenpoint

Site Characteristics & Area Characteristics:

The site consists of a vacant plot of land elevated above the Upper Dromore Road and between Cloughmore View and Dromore Heights. Access can currently only be gained to the site via Dromore Heights. The Upper Dromore Road is a busy route into and out of Warrenpoint and along this road, dwellings/buildings predominantly front onto the road. Within Cloughmore View and Dromore Heights, dwellings also front onto the roads and are predominantly detached and single storey (chalet bungalows).



Site from Cloughmore View side

Upper Dromore Road



The site is currently rough and invaded with scrub vegetation. It is bound along the south western perimeter with no.4 Dromore Heights by conifers and a boundary wall. The site slopes gently away from the south western boundary towards the Upper Dromore Road however before it meets the 3 surrounding roads a steep vegetated embankment exists along these boundaries as seen in the images above.



Site History:

Site included in application for dwelling at Upper Dromore Road under P/1975/0997 – approved.

Land opposite/south of application site known – approval for 2 bungalows under P/1992/0817 at 44 Upper Dromore Road – not built.

An objection letter quotes P/1981/0337 as planning history for the application site however this reference relates planning history on the site of the current 6 Dromore Heights.

Planning Policies & Material Considerations:

RDS 2035

Banbridge Newry and Mourne Area Plan 2015

SPPS – Strategic Planning Policy Statement

PPS 2 – Natural Heritage

PPS 3 – Access, Movement and Parking

PPS 7 – Quality Residential Environments

Addendum to PPS 7 – Safeguarding the Character of Established Residential Areas

PPS 12 – Housing in Settlement

Planning Strategy for Rural Northern Ireland – DES 2 – Townscape

Advice and guidance:

Creating Places

DCAN 8 – Housing in Existing Urban Areas

Consultations:

DFI Roads – In terms of PPS 3 Access Movement and Parking and the associated DCAN 15, DFI Roads have expressed no objections in principle subject to conditions.

NIW – Available capacity at WWTW, public water supply within 20m, foul Sewer within 20m and Surface water sewer within 20m – Consultation with NIW by means of a Predevelopment Enquiry required.

Environmental Health – no objections – advise the use of energy efficient materials and renewable energy.

Loughs Agency – no objections in principle.

Objections & Representations

6 neighbours originally notified of proposal and representations made from 9 different addresses. All of those who made representations and those originally neighbour notified were also notified of all amendments received. The proposal was advertised in 3 local papers on the 5th and 7th of April 2017 and again on 7th, 9th and 10th May 2018.

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 within the defined settlement of Warrenpoint adjacent to the Upper Dromore Road.

PPS 7 - QD1

Planning permission will be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. There are 9 criterions listed to conform to.

- (a) *The development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscape and hard surfaced area:-* the original submission involved 4 dwellings (2 blocks of semi-detached units backing onto each other) however their design and form were deemed be out of character, did not respect the existing density and was overdevelopment of the site. A reduction to 2 appropriately designed dwellings was then sought to ensure the proposal sympathised with the existing detached character of the area and respected the density. The amended scheme however is still unsatisfactory and represents overdevelopment of the site in that the proposed dwellings footprints are too big for their curtilages and in turn the scale proposal is out of character and incompatible with the surrounding development and density presently in Cloughmore View and Dromore Heights. The large footprint leaves the back to back distance between the 2 dwellings at only 8m with the finished floor level of dwelling facing onto Dromore Heights 1m higher than the other. This therefore would create other issues discussed later.



- (b) *Features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development:-* No archaeological, built heritage or protected landscape features will be affected.
- (c) *Adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area:-* The proposed private amenity space provided is above the minimum 70sqm advised within Creating Places with 92sqm and 110 sqm proposed. A 1.8m high close boarded fence is proposed along the rear boundary between the 2 proposed houses reducing to 1.2m towards the Upper Dromore Road side. Limited details were provided

regarding proposed landscaping including tree/shrub planting, finish to hard surfaces, wall details.

- (d) *Adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development:-* Neighbourhood facilities are not required due to the small scale nature of this proposal;
- (e) *A movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures:-* The site lies adjacent to one of the main arterial routes into and out of Warrenpoint Road which is also a bus route and has footpaths on both sides of the road. This proposal is also acceptable in meeting the needs of people whose mobility is impaired and further measures will be taken and secured through any building control application. No rights of way are to my knowledge hindered and in terms of traffic calming the dwellings access onto existing established housing developments – Dromore Heights and Cloughmore View at a point where traffic is slowing down to join Upper Dromore Road or come off it.
- (f) *Adequate and appropriate provision is made for parking:-* 2 car parking spaces have been provided for internally with cars reversing onto road. As the proposed dwellings have 4 bedrooms and detached, 3 in-curtilage car parking spaces are required. Therefore, as 3 spaces haven't been provided, the scheme has not met this criterion.
- (g) *The design of the development draws upon the best local traditions of form, materials and detailing:-* The actual design of the dwellings are acceptable and would not be out of character with this section of Cloughmore View or Dromore Heights however for them to work positively their plot sizes would need to be larger. In terms of materials, a smooth render facade with natural grey granite in parts is proposed however; the grey granite is not a common material in these particular estates but rather render incorporated with red brick is more of a comparable material mixture. The roof materials of the proposed dwellings involve grey concrete roof tiles, black uPVC guttering and rmps, black uPVC fascia/white soffit pvc, black textured pvc windows. A stone gabion retaining wall 1.2m high is proposed along south western perimeter with a grassed bank on top. The majority of the proposed materials are acceptable however I'm not convinced that the granite stone will fit with the existing character of the area.
- (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:-* Due to the sloping nature of the landform from Cloughmore View and Dromore Heights towards the Upper Dromore Road, the proposed site sits at a lower ground level than the existing dwelling at 4 Dromore Heights. The finished floor level (ffl) of the proposed dwelling facing onto Cloughmore View is 52.40 whereas the ground level within the grounds of no.4 Dromore Heights is 55.92. that's a difference of 3 ½ m. There is also a retaining wall with coniferous hedging between the site and no.4 which would offer screening and privacy protection. The gable window serving bedroom 4 of the dwelling fronting onto Cloughmore View would not overlook the adjacent dwelling due to the existing vegetation and lower ground level of the proposed site. With regard to the south western elevation of the dwelling fronting onto Dromore

Heights, there would be minimal overlooking to no.4 also and this area is visible from public view along the street and therefore not private. A 1.8m high close boarded fence is proposed to the rear of the new dwellings to protect the privacy of their occupants. I do have concerns regarding the relationship of the proposed dwellings with each other. Only 8m of a separation distance would exist between the rear first floor windows of the houses and this is well below the creating places minimum which is set at 20m for green-field sites and in low-density developments. The rear 1st floor bedroom windows would look directly into each other – and only 8m from each other. Although some reduction in the minimum 20m back to back distance may be accommodated at this site given its location, this is dependent on a suitable design and overall footprint/layout. The closeness of the houses to each other would also create a dominant/overbearing impact as their proposed height is 6.4m above ground level and their position could also cast shadows on each other. The closeness of the proposed houses backing onto to each other could also create noise issues for the proposed residents. The proposed scheme would not overlook any other properties on Dromore Heights, Cloughmore View, Upper Dromore Road – front gardens open to public view are not private spaces - and there is a sufficient distance between the site and surrounding property to not overshadow existing properties either.

- (i) *The development is designed to deter crime and promote personal safety:-* The design and layout of the dwellings should deter crime and promote personal safety as houses front onto the road and driveways.

PPS 7 Addendum – Safeguarding the Character of Established Residential Areas - Policy LC1 – Protecting Local Character, Environmental Quality and Residential Amenity

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 QD1 of PPS 7, and all the additional criteria set out are met:

- (a) *The proposed density is not significantly higher than that found in the established residential area :-* The addition of 2 suitably designed dwellings on this site would not upset the existing density found within this existing residential area;
- (b) *The pattern of development is in keeping with the overall character and environmental quality of the established residential area:-* the proposal to site 2 dwellings onto the site back to back, with dual frontage and each facing their respective estate road is acceptable however, it's the scale/design of the proposal which has been submitted is unacceptable; and
- (c) *All dwelling units and apartments are built to a size not less than those set out in Annex A:-* the floor space of the proposed dwellings is well above the minimum floor space requirement set for a 4 bed house.

PPS 12 – Housing in Settlements

Para 81 of PPS 2 states that the Planning Control Principles (PCP) should be taken into account in the preparation of development plans and are also material to decision on individual planning applications and appeals for housing development in settlements. They support and should be applied in conjunction with other relevant planning policy and guidance including PPS 7, PPS 13, Creating Places, DCAN 8 and new current policy the SPPS.

PCP1 (of PPS 12) – Increased Housing Density without Town Cramming

This policy encourages increased density of housing development in towns and city centres and other locations which benefit from high accessibility to public transport facilities however great care should be taken to ensure that local character, environmental quality and amenity are not significantly eroded. Respect should also be paid towards the form, scale, massing and layout of the new development and that of adjacent housing and safeguard the privacy of existing residents.

In the case of this application, the site lies towards the outskirts of Warrenpoint, on a public transport route with an existing small shopping complex in close proximity. The existing character involves detached dwellings both single storey and storey and a half on small to medium sized plots and fronting onto the estate roads. The proposed development of 2 dwellings would not disrespect the current density however; the proposal does not fully comply with the general principles of PCP1. Although making use of a vacant plot of land within a well-established residential area, the current proposal represents overdevelopment in terms of the scale and if approved would hinder the existing character of the area and create other amenity issues for the proposed occupants. The lack of sufficient car parking would also cause/encourage an overspill onto both estate roads.

PCP 2 of PPS 12 – Good Design

The design proposed for the 2 dwellings as discussed previously represents overdevelopment of the site and would adversely affect the existing character of the area.

Seven objections (7 different addresses) were received with regard to the original 4 dwelling proposal raising issues such as:

- Increased traffic and Upper Dromore Road already a busy road given existing high school and retail/proposed retail units;
- Car parking – over spill/limited car parking proposed, and related issues regarding vehicular and pedestrian safety;
- Style of house/density not in keeping with established character;
- If approved would set a poor precedence;
- Overshadow/loss of light;
- Overlook.

A further 3 objections were received following the submission of amended drawings in April 2018 including a new objector. The issues raised following the amended plans include:

- Road safety/visibility;
- Limited car parking in curtilage which would result in overspill onto Cloughmore View/Dromore Heights and in turn put pedestrians and other road users at risk;
- Proposal not in keeping with the character of Dromore Heights or Cloughmore View – single dwellings with large gardens and ample parking – new proposal density still too high and is overdevelopment of the site;
- Overlooking;
- Previous planning for single dwelling only;
- Cold water mains apparently feeds through site;

- If approved development would set a poor precedent.

A number of these concerns have already been covered through the assessment under QD1 of PPS 7. The proposal has been reduced from 4 dwellings to 2. A slight increase in traffic is expected due to 2 new dwellings being proposed however, the site is located within the urban area where new housing is promoted subject to compliance with planning policy. DFI Roads were consulted on both schemes and are satisfied with the proposed access arrangements and location. With regard to the cold water main issue, NIW were consulted and have not raised any objections to the proposal however, any approval on the site and works to move this main is an issue between the developer/land owner and NIW.

Recommendation:

Refusal is recommended

Refusal Reasons/ Conditions:

1. The proposal is contrary to the SPPS (Strategic Planning Policy Statement) and Policy QD1 of the Department's Planning Policy Statement 7: 'Quality Residential Environments' in that it has not been demonstrated that the development would create a quality and sustainable residential environment. The proposed development fails to meet the requirements of QD1 in that it has not been shown:
 - (a) that the development respects the surrounding context and is appropriate to the character of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;
 - (c) That adequate provision is made for landscaped areas as an integral part of the development;
 - (f) That adequate and appropriate provision is made for parking;
 - (g) That the design and layout of the development draws upon the best local traditions of form, materials and detailing;
 - (h) That the design and layout will not cause/create unacceptable adverse impacts on proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.
2. The proposed development is contrary to the SPPS and Policy LC1 of the Addendum to Planning Policy Statement 7 on Safeguarding the Character of Residential Areas, (b) in that:

The proposed pattern of development is not in keeping with the overall character and environmental quality of the established residential area.
3. The proposed development is contrary to the SPPS and Planning Control Principle 1 of PPS 12, in that the proposed form, scale, massing and layout do not respect local character and environmental quality.

4. The proposed development is contrary to the SPPS and Planning Control Principle 2 of PPS 12, in that the proposed development does not represent a high quality of design, layout and landscaping.
5. The proposed development is contrary to the SPPS and Policy NH 6 of Planning Policy Statement 2 (PPS 2) in that the design, size and scale is not appropriate to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality and does not respect local housing layout and local materials.
6. The proposal is contrary to the SPPS and Policy DES2 of the Planning Strategy for Rural Northern Ireland in that the development would, if permitted, be detrimental to the townscape of Warrenpoint and would not be sensitive to the character of the area surrounding the site with regard to design, scale and use of materials.

Case Officer Signature:
Date:
Authorised Officer Signature:
Date:

Cole Partnership
Architecture
and Project
Management
12A Duke Street
Warrenpoint
Co.Down
BT34 3JY

Re: Proposed dwellings at Dromore Heights Warrenpoint for Mr. & Mrs . T Cunningham. Your Ref:LA07/2107/0449/F

Reasons for refusal:

1. The proposal is contrary to the SPPS and Policy QD1 of the Department's Planning Policy Statement 7: 8 'Quality Residential Environments' in that it has not been demonstrated that the development would create a quality and sustainable residential environment. The proposed development fails to meet the requirements of QD1 in that it has not been shown:
 - (a) that the development respects the surrounding context and is appropriate to the character of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;
 - (c) that adequate provision is made for landscaped areas as an integral part of the development;
 - (g) that the design and layout of the development draws upon the best local traditions of form, materials and detailing;
 - (h) that the design and layout will not cause/create unacceptable adverse impacts on proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.
2. The proposed development is contrary to the SPPS and Policy LC1 of the Addendum to Planning Policy Statement 7 on Safeguarding the Character of Residential Areas, (b) in that: The proposed pattern of development is not in keeping with the overall character and environmental quality of the established residential area.
3. The proposed development is contrary to the SPPS and Planning Control Principle 1 of PPS 12, in that the proposed form, scale, massing and layout do not respect local character and environmental quality.
4. The proposed development is contrary to the SPPS and Planning Control Principle 2 of PPS 12, in that the proposed development does not represent a high quality of design, layout and landscaping.

5. The proposed development is contrary to the SPPS and Policy NH 6 of Planning Policy Statement 2 (PPS 2) in that the design, size and scale is not appropriate to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality and does not respect local housing layout and local materials.

6. The proposal is contrary to the SPPS and Policy DES2 of the Planning Strategy for Rural Northern Ireland in that the development would, if permitted, be detrimental to the townscape of Warrenpoint and would not be sensitive to the character of the area surrounding the site with regard to design, scale and use of materials.

The proposal is for two detached dwellings at Cloughmore View and Dromore Heights located along the Upper Dromore Road Warrenpoint. These two dwellings will be located fronting on to the Upper Dromore Road. Case officers report states that the two developments are made up of pre dominantly single storey (chalet bungalows).

In the 42 dwellings located in the two developments only seven are single storey dwellings. All other dwellings having a first floor with a mixture of velux windows and set back dormer windows 35 out of 42 dwellings. The proposed dwellings are dual elevation and will face on to the Upper Dromore Road which has a mixture of bungalow, storey and a half and two storey dwellings.

The proposal falls under the Policy PPS – QD1 the case officer notes that this proposal fails under five of the key points:

- *(A)The development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscape and hard surfaced area.*

The case officer notes the proposal “*represent over development of the site in that the proposed dwellings foot prints are too big for their curtilages.....out of character and incompatible with the surrounding development and density presently in Cloughmore View and Dromore Heights*”

The information in Table 1 and Table 2 give a breakdown of the plot ratio sizes in both developments Cloughmore View and Dromore Heights.

Table 1

Cloughmore View	Site M2	Dwelling M2	Plot Ratio %
1	413	100	24
2	267	83	31
3	297	83	28
4	336	94	28
5	485	88	18
6	430	98	23
7	399	100	25
8	455	144	31
9	382	100	26
10	492	114	23
11	568	121	21
12	486	120	25
13	458	126	27
14	489	119	24
15	428	122	28
16	373	101	27
17	395	90	23
18	400	98	25
19	468	120	26
20	296	98	33
21	274	85	31
22	326	100	30
23	379	123	32
24	358	131	36
Total			645
Average			27%

The plot size for the dwelling off Cloughmore View is 581m² and dwelling size 153m² giving it a plot ratio of 26%. The plot average in this development is 27%, the plot ratio for the proposed dwelling is lower than the average. It can be noted that 18 out of the 24 dwellings (75%) in the development are similar or over the plot average.

Table 2

Dromore Heights			
No.	Site M2	Dwelling M2	Plot Ratio %
1	713	115	16
2			
3	773	182	23
4	1131	150	13
5	676	115	17
6	437	111	25
7	754	115	15
8	461	122	25
9	767	144	19
10	490	122	25
11	582	160	30
12	552	116	22
13			
14	732	116	22
15	571	115	20
17	714	127	17
18	570	115	20
19	418	115	27
20	688	115	17
Total			353
Average			20%

The plot size for dwelling located off Dromore Heights is 670m² and dwelling size 174m² giving a plot ratio of 23%. The plot average in this development is 20% it can be noted that almost 50% of the dwellings at this location are over the average ranging from 20% to 27%. Seven dwellings, over a third of the development, are similar or above the plot ratio of the proposed dwelling.

Recently approved dwelling, between 10 and 14 Upper Dromore Road, LA07/2016/0063/F, for storey and a half dwelling, has a plot ratio of 24% similar to plot ratio of proposed dwelling.

The case officers report states sites are “out of character and incompatible” the evidence from plot sizes shows that the proposed sites are average to the plot sizes of the surrounding developments and not out of character. See Fig 1.

The case officers report has concerns about the separation distance between the two proposed dwellings. “a separation distance off 11m and a maximum of 13m between properties”. The

separation distance of 11m is between the two proposed garages and is only over a width of 3.9m. The separation distance between the main bodies of the two proposed dwellings is 13m

Fig1: Map of area showing the density of the area. Properties in this area do not have 20m back gardens.



- *(C) That adequate provision is made for landscaped areas as an integral part of the development*

The case officers report does not detail why this reason for refusal is up held. Amended drawing submitted on the 4th September 2018 shows proposed hedging planted to the Upper Dromore Road elevation, grassed areas, tarmac to driveways and a 1.2m stone to the two proposed dwellings. There is 345m² of grassed/ landscaped area to the dwelling accessed at Dromore Heights and 300m² of grassed/landscaped area to dwelling accessed off Cloughmore View. We see no reason why this is upheld as a reason for refusal.

- *(G) The design of the development draws upon the best local traditions of form, materials and detailing*

In this refusal reason the case officer, accepts that the “*design of dwellings are acceptable and would not be out of character with this section of Cloughmore View or Dromore Heights*” and goes further to talk of the scale of proposals. The scale of the proposal is

similar to the varied scale of sizes of plots in the surrounding developments as previously stated.

The case officer goes further to accept that *“majority of proposed materials are acceptable however im not **convinced** that granite stone will fit with existing character of area”* The proposed finish is grey granite z stone. These dwellings are proposed dual elevation to face on to the Upper Dromore Road. Please see attached photographs 1 and 2 of dwellings facing on to Upper Dromore Road which have a façade of grey granite z-stone.

Photograph 1: Dwelling between 10 and 14 Upper Dromore Road



Photograph 2: Dwelling at 20 Upper Dromore Road



The original dwelling that Dromore Heights was built around has no red brick and has a dashed facade. Clougmore View has a number of dwellings that are solely smooth rendered and painted. There are a number of dwellings on the Upper Dromore Road (Photographs 1 and 2) and in surrounding developments where grey granite or stone facade has been used. Please see photographs 3 and 4.

Photograph 3: Dwelling at Ashley Heights



Photograph 4: Dwelling at Elmfield Drive



We would also note there is a variety of finishes on dwellings along and facing the Upper Dromore Road, dry dashed, painted dash, brick, render painted, combination of brick and painted render and zstone. Please see attached photographs 5 and 6

- *(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, over shadowing noise or other disturbance*

The case officers report has no concerns for adverse effect on existing surrounding properties. The report raises concerns for the effect the proposed dwellings would have on each other.

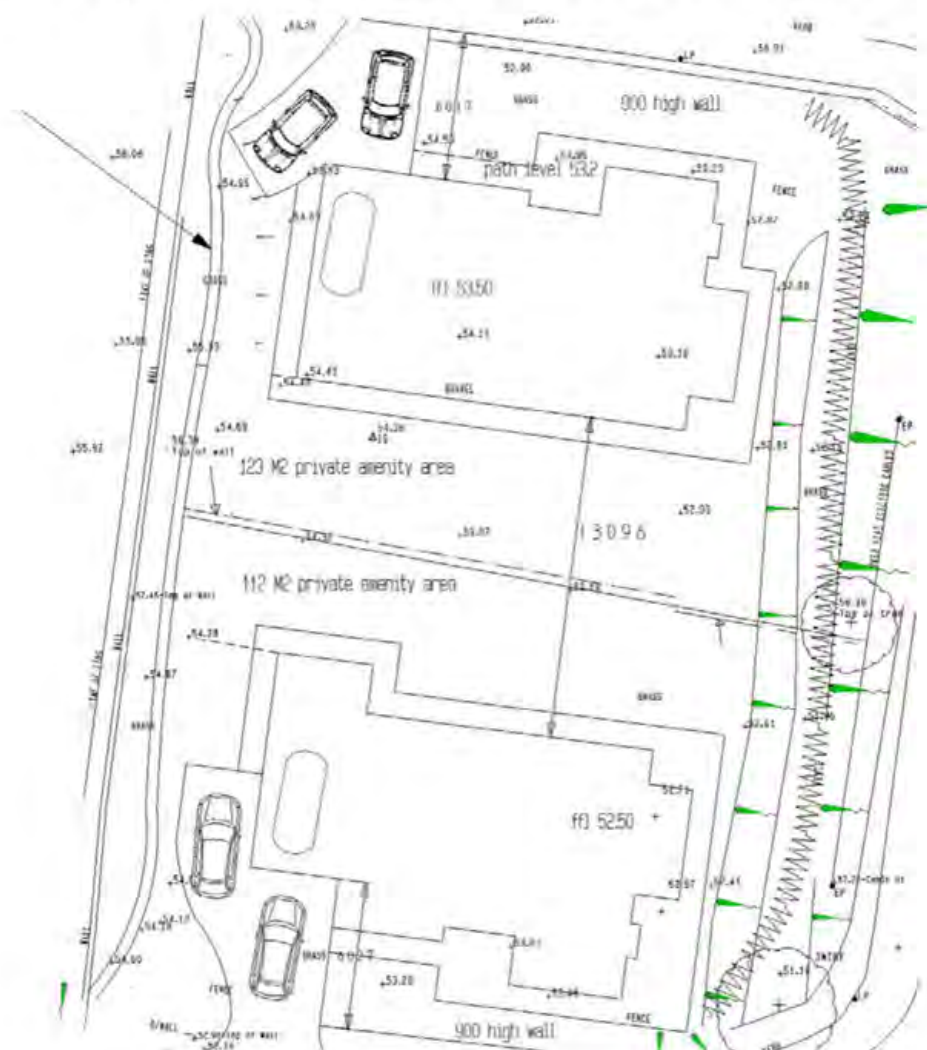
The case officers report states *"I still have concerns regarding overlooking as the 1.8m high fence will be insufficient to off protection of private amenity space"* The standard height of separating fences between dwellings throughout the area is 1.8m we fail to see how in this application that it would offer "insufficient" protection to amenity space when it has been used throughout the surrounding area. From the dwelling in Cloughmore View overlooking to the private amenity space of dwelling to rear will be more difficult due to the slightly lower topography.

The case officers report in relation to separation distance of the dwellings states *" a minimum of 11m and a maximum of 13m between the properties however : this is still well below the creating places minimum which is set at 20m for **Greenfield sites and in low density developments**"* however in creating places para 7:15 it states *" on **green field site and in low density developments** good practice indicates that a separation distance of around 20m or greater **between opposing rear first floor windows in new houses** is generally acceptable"* We cannot see how this statement is related to separation distance between the proposed dwellings. Amended drawings submitted on the 4th September 2018 show that there are no rear first floor windows on either of the proposed dwelling so over looking cannot be possible see Fig 2. The amended scheme has also increased the separation distance between main bodies of the two properties to 13m with a 1.8m close boarded timber fence providing privacy to the two dwellings at ground floor level see Fig 3. Separation distance of 11m relates to utility room which can be frosted glazing.

Fig 2: Rear elevations of dwellings facing back to back showing no windows at first floor level

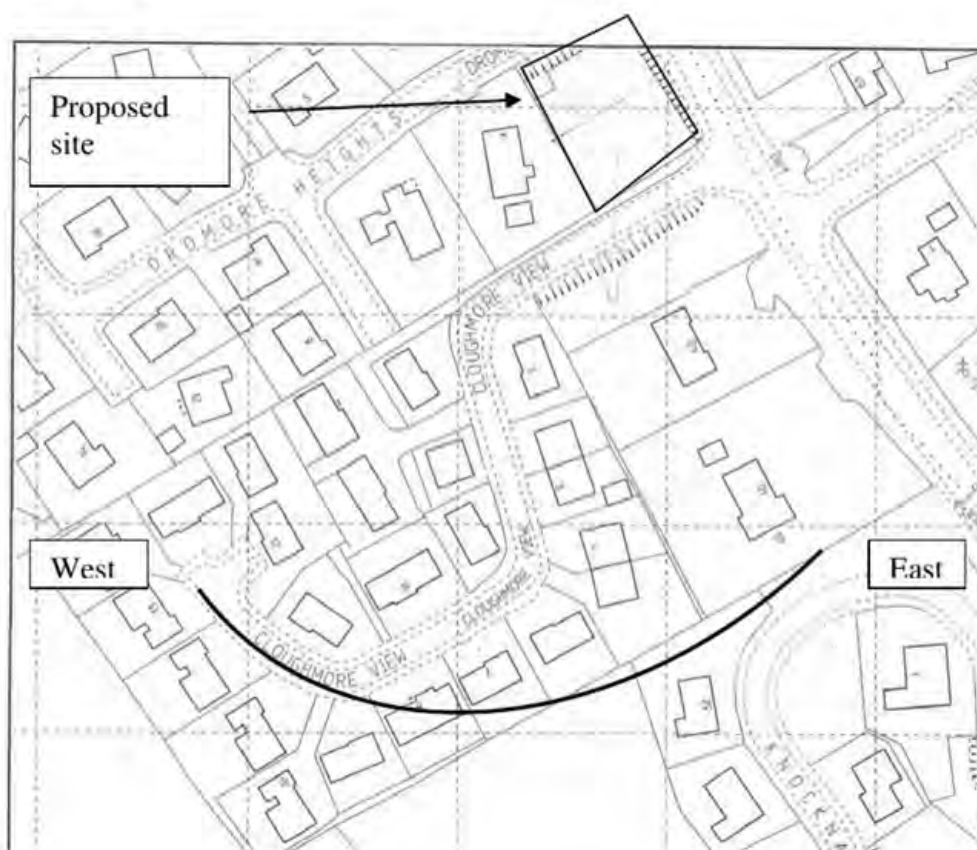


Fig 3: Site plan showing separation distance of 13m between dwellings. Closed boarded fence will be approx 2.8m high from Cloughmore View site to Dromore Heights site.



A separation distance of 13m will not create dominance or overbearing on either of the proposed dwellings. The case officer states that the dwellings “*could cast shadows on each other*”. Due to the path of the sun it would be impossible for the proposed dwelling at Dromore Heights to create any shadow on proposed dwelling at Cloughmore View Fig 4. The topography of proposed dwelling at Cloughmore view, a ridge height of 1m below that of proposed dwelling at Dromore Heights, and 13m separation distance indicates there would be no over shadowing to Dromore Heights.

Fig 4: Sun path



In terms of separation distance this has been increased to 13m between dwellings. There are no windows at first floor level therefore there will be no overlooking between proposed properties. There is a proposed 1.8m close boarded timber fence between properties which will create privacy between the dwellings.

The scale of the proposed dwellings has been addressed in above table showing a mixture of scale of the properties in both Cloughmore View and Dromore Heights. The case officers report states that amenity issues would occur for proposed occupants, however amended drawings submitted show increased useable amenity space which are well in excess of the requirement set out in creating places.

We would argue that this area is an infill proposal for two dwellings in a urban area of higher density than other surrounding areas and that *“greater flexibility will be appropriate in assessing separation distance”* as set out in creating places paragraph 7.18

- *(b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area*

The FFL of the proposed dwelling off Dromore heights is 53.5 and ridge height of 59.8m giving it a total FFL to ridge height of 6.3m which is in keeping with the surrounding dwellings. This dwelling has been provided with 123m² of useable private amenity space

well over the 70m² required. Plot ratio size as previously mentioned is in keeping with the area which has a mixture of plot sizes of Dromore Heights.

In terms of height the proposed dwelling off Cloughmore View will have a ridge height of 1.0m below that of the proposed dwelling at Dromore Heights. This dwelling has been provided with 112m² of private amenity space over the 70m² required. Plot ratio size as previously mentioned is in keeping with the area which has a mixture of plot sizes of Cloughmore View.

The patten of development in the area is a mixture of single storey dwellings (7), being the minimum, and dwellings having a first floor accommodation with a mixture of velux windows and set back dormer windows 35 out of 42 dwellings between Cloughmore View and Dromore Heights.

The proposed dwellings will face on to the Upper Dromore Road which has a mixture of bungalow, storey and a half and two storey dwellings. The proposed dwellings are similar in height to surrounding dwellings. No.1 Dromore heights has a FFL of 53.34 and a ridge height of 59.94 giving it a FFL to ridge height of 6.6m, similar to the proposed dwellings.

The dwelling located at No.4, which was the original dwelling at Dromore Heights which the development was built around, has a FFL of 56.24 and a ridge height of 62.57 giving it a FFL to ridge of 6.15m, again similar to the proposed dwellings.

As previously mentioned the scale of the proposed development is similar to the surrounding area.

Paragraph 4.10 of PPS 7 states *"Proposals involving intensification in these areas will only be permitted in the following exceptional circumstances.....the development of a significant gap site within an otherwise substantial and continuously built up frontage provided this would be of a density and character prevailing in the area."*

The table above shows that the proposed sites 26% and 23% respectively would be in keeping with the varied plots size of Cloughmore View and Dromore Heights.

The application is contrary to Planning Control Principle 1 of PPS 12 which aims to increase housing density in towns, it states that *"When considering an increase in housing density in established residential areas.....that the proposed density, together with the form, scale, massing and layout of the new development will respect that of adjacent housing and safeguard the privacy of existing residents"*

The proposed layout of the proposed dwellings will respect the privacy of all surrounding existing properties the case officer agrees with this in the report.....*"not over look the adjacent dwelling....."minimal over looking".... " there is sufficient distance between the site and surrounding property not to overshadow existing properties "*

The scale and density as previously mentioned is similar to the existing character of the area, as previously stated the plot size of dwelling at Dromore Heights is 23% which is with in keeping of the area and the plot size at Cloughmore View is 26% which is in keeping with the mixed nature of plot size in this development.

The application is contrary to Planning Control Principle 2 of PPS 12 in that the proposed development does not represent high quality of design, layout and landscaping. The case officers report state that *"the actual design of the dwellings are acceptable and would not be out of character with this section of Cloughmore View or Dromore Heights"*. The layout of the design creates dual elevations facing into the two developments and facing on to the Upper Dromore Road. The layout allows for off street parking and parking within garage. Amended drawings submitted on the 4th of September 2018 shows additional planting of hedge grow to the Upper Dromore Road view. The amended design has also increased the useable amenity space within the curtilage of the proposed dwellings.

The case officer states the proposal is contrary to NH6 of PPS 2 design, scale and not appropriate to AONB not respect local housing layout and local materials

The development is located within the development limit of Warrenpoint along a main transport route. The proposal is for two detached dwellings using first floor for accommodation. The majority of dwellings in this area are detached dwellings using roof space for accommodation with either velux windows or dormer windows.

Policy NH6 states permission will not be granted if *it will not respect:*

the local architectural styles and patterns;
traditional boundary details, by retaining features such as hedges, walls, trees and gates; and
local materials, design and colour.

The development along the Upper Dromore Road is a mixture of architectural styles. The dwellings in the developments are of varying style and sizes. Dwellings located along the Upper Dromore Road, along which the proposed dwellings will face are of varying size, style and finishes.

The application is contrary to the SPPS and Policy DES2 of the planning Strategy for Rural Northern Ireland in that the development will be detrimental to the townscape of Warrenpoint and would not be sensitive to the character of the area surrounding the site with regard to design, scale and use of materials.

Policy DES2 of the planning Strategy for Rural Northern Ireland states that *"bland and unimaginative development does not enhance the townscape and enhance the town scape and will be discouraged"* the case officer has stated in the report that *"the actual design of the dwellings area acceptable and would not be out of character with this section of Cloughmore View or Dromore Heights"*

The scale of the proposed dwellings as previously mentioned are similar in scale to the surrounding areas, the dwelling are also similar in height to surrounding dwellings. In terms of finishes, there are a variety of finishes of dwellings facing on to the Upper Dromore Road, including granite z stone. Granite z stone has also been used on a number of dwellings in the surrounding developments. Please see attached photographs 5-7.

Photograph 5: Dwellings over varying style and finish, smooth render painted, pebble dashed facing on to Upper Dromore Road



Photograph 6: Apartments facing Upper Dromore Road with smooth Render Finish



Photograph 7: Dwellings with render and red brick



All statutory bodies that have been issued with consultations have responded with no objection to the proposal. In relation to objections, only three objections were received to the amended plans main issues raised were:

- Road safety – statutory body road service have been issued with consultation and have no objection to the application
- Over development – addressed above with information relating to plot sizes in the surrounding area, height is in similar to surrounding dwellings
- Privacy – proposed dwelling have been designed to eliminate any infringement on privacy of existing residents
- Parking – satisfactory parking is provided in the curtilage of the dwellings

Creating places documents states that “The use of different building heights, frontages and forms will help create variety and interest in the layout thereby enhancing its visual character.” and “Dwellings should be designed to present an attractive outlook onto existing and proposed roads” we feel that the layout and design has incorporated these requirements.

Calls and emails where logged to case officer prior to report being published, in order to discuss and address concerns, neither emails of calls logged where returned.

Yours faithfully,

J.COLE
For Cole Partnership

ITEM NO	8				
APPLIC NO	LA07/2017/1619/F			Full	DATE VALID 23/10/2017
COUNCIL OPINION	REFUSAL				
APPLICANT	Thomas Grant 48 Leode Road Hilltown Newry BT34 5TJ			AGENT	Neil Byrne CGDM 27 Patrick Street Newry BT35 8EB 028 3025 0844
LOCATION	Land adjacent North West of 48 Leode road Hilltown BT34 5TJ				
PROPOSAL	Proposed dog kennel including office and storage (amended plans)				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions		SUP Petitions
	0	0	0		0
			Address	Signature s	Address s Signatures
			0	0	0 0

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - in that the building proposed is not a locally important building suitable for conversion and
 - the reuse or conversion would unduly affect the amenities of nearby residents.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland in that the proposal would not support the core planning principle of improving health and well-being in that if approved the proposed use would impact adversely on the residential amenity of nearby properties in terms of noise pollution.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1619/F

Date Received: 24/10/2017

Proposal: Proposed dog kennel including office and storage

Location: The application site is adjacent North West of 48 Leode Road, Hilltown. The application site is outside the development limits of Hilltown and is included in the Mounre Area of Outstanding Natural Beauty as defined by the Banbridge / Newry and Mourne area Plan 2015. The application site sits approx. 9 kilometres east of Newry City.

Site Characteristics & Area Characteristics:

The application site is occupied by a large outbuilding with large openings along both its SW and NE elevations. A small lean to structure is positioned along the buildings SE elevation with an open grassed area to the south west and south east of this building. Two further buildings are contained within the north eastern position of the application site; the building closest to Leode Road appears to have been used as stable accommodation. An area of hard stand forms a yard area between the buildings. Access into the site is provided via a field gate positioned south of the buildings and adjacent to the access to the dwelling at No. 48 Leode Road with a second agricultural gate access further north along the Leode Road frontage and next to the stable building.

The application sites western boundary with the Leode Road is defined partially by an open board timber fence and concrete posts with a formed ditch and some matured trees making up the boundary further north. The south western boundary is shared partially with the residential curtilage of 48 Leode Road and an agricultural field and this boundary is formed by an open board fence. Matured landscaping defines the application sites north eastern boundary shared which is shared with open agricultural fields.

The surrounding area is rural countryside with the dwelling at No 48 Leode adjacent to the SE of the application site and two further dwellings positioned to the West and North West of the application site, on the western side of Leode Road.

Both further south west and north east of the application site are active quarries.

Site History:

P/1976/0310	LEODE, HILLTOWN	PROPOSED WATER PUMPING STATION TO SERVE EXISTING AND PROPOSED DEVELOP.	PERMISSION GRANTED
P/2007/0360/F	150 metres south of No.46 Leode Road, Hilltown.	Erection of dwelling and detached garage.	PERMISSION GRANTED
P/2005/0194/F	150 metres south of No.46 Leode Road, Hilltown.	Erection of dwelling and detached garage.	PERMISSION GRANTED

Planning Policies & Material Considerations:

Strategic Planning Policy Statement for Northern Ireland SPPS

Banbridge / Newry and Mourne Area Plan

Planning Policy Statement 21 – Sustainable Development in the Countryside

Planning Policy Statement 3 – Access, Movement and Parking

Planning Policy Statement 2 – Natural Heritage

Consultations:

- Newry, Mourne and Down Environmental Health Department – Conditions have been recommended to protect adjoining residential properties, if the conditions cannot be attached to an approval then the Environmental Health Department would be of the opinion the development is likely to have an adverse impact on the amenity of nearby residential properties due to noise. (01/05/2018).
- Department for Infrastructure Roads (DFI Roads) – Further to receipt of amended plans, DFI Roads has no objection to the proposal subject to conditions being met (09/03/2018).
- Northern Ireland Water – No objection subject to compliance with conditions (02/07/2018).

Objections & Representations

There were two neighbour notifications issued for this proposal. The application was advertised in the local press on 8th November 2017 and again on the 1st March 2018 following receipt of amended plans.

A neighbour representation was received outlining concerns with regard to signage proposed and potential noise issues caused by the daily routine of a boarding kennel including early morning feeding and customer arrivals at unsociable houses. A response letter was provided advising that no advertising was proposed as part of this planning application and should the applicant wish to erect signage for the proposal a separate consent to display would be required. Potential noise issues are dealt with below.

Consideration and Assessment:

Page 53 of The Strategic Planning Policy Statement (SPPS) states that provision should be made for the sympathetic re-use and conversion of a locally important building of (such as former school house, churches and older traditional barns and outbuildings) for a variety of alternative uses where this would secure its upkeep and retention. The focus of the SPPS is only to permit conversion of rural buildings that are of local importance. Although the SPPS does not define a 'locally important building' these examples suggest that such building should be of some local architectural merit or historic interest. Where the SPPS introduces a change of policy direction and/or provided 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 building subject of this application is a large outbuilding with reduced ridge height to the rear (NE). The walls are rendered and white washed and metal cladding comprises the roof covering. A roller shutter door is provided along the SW gable elevation and wooden double doors are on the NE gable elevation. The building sits next to Leode Road and is visible on approach from both directions. The agent has indicated the building was previously used for agricultural purposes. There is no planning history available for this buildings and a 2008 image from Google Earth displays the building in place at this time.

On assessment of the subject building the Planning Department do not consider the building is of worth to the local area or community in terms of aesthetic or architectural value. Further, it is not considered there is an historical or community value associated with the building. It is therefore not considered to be locally important and therefore the principle of the development is not established.

CTY1 in Planning Policy Statement 21 – Sustainable Development in the Countryside outlines different scenarios for which planning permission will be granted for non-residential development in the countryside. The agent has indicated the proposal is for the reuse of an existing building and should therefore be assessed under Policy CTY4 – The Conversion and Reuse of Existing Buildings. Under CTY4 planning permission will be granted for the sympathetic conversion, with adaption if necessary of suitable buildings for a variety of alternative uses where this would secure its upkeep and retention. It has been indicated in the supporting statement the building subject of this planning application was previously used as agricultural outbuildings and they are presently vacant buildings.

The works proposed by this application include the change of use of the existing shed with external works to close up both the large openings on the gable elevations and provision of a window to the south western gable and double doors along the northern eastern gable elevation. Internal works will result in the creation of an office / lobby, a storage area and a kennelled area consisting of 25 individual kennels. Parking spaces will be provided within the application site for 7 vehicles.

On assessment of the proposal against the criteria of CTY4, the building is considered a permanent construction. It is not considered the works proposed by this application would result in an adverse effect on the character or appearance of the locality and it is considered its conversion would maintain the form, character, features, design and setting of the existing buildings. The building is not considered

to have any significant architectural merit. There are no extensions proposed to the building. The proposed use of the buildings is considered will cause adverse impacts on nearby residents in terms of noise pollution. The nearest 3rd party residential property - No 49 is positioned 11 metres west of the application site, with a further residential property -No. 47 positioned 14 metres north west of the application site. Environmental Health in their initial response had requested a noise impact assessment following their inspection of the site and identification of residential properties in close proximity. A noise impact assessment was provided to the Planning Department in February 2018. Following their assessment of this, Environmental Health had requested further information to consider noise likely to be generated from within the building and at the worst case scenario, additionally further details were sought on ventilation methods proposed, details surrounding the requirements to be met in relation to animal welfare legislation and methods to dispose of dog waste. The agent submitted further information on 28th March 2018 for consideration. On assessment of this latest information provided, Environmental Health responded on 1st May 2018, with a list of seven conditions to be attached to any future approval for the proposal in order to protect the amenity of nearby properties from excessive noise. The conditions are outlined below.

1. There are to be no outdoor runs from the kennels;
2. Each dog shall be walked individually during daytime hours only (07:00 to 23:00) in dog walking area indicated in Figure 1 on page 11 of Noise Assessment, dated 23rd January 2018;
3. The fencing to screen the dog walking alleyway to be located and constructed as shown in Figure 2 on page 15 of the Noise Assessment, dated 23rd January 2018;
4. Both the kennelling area and the office to be constructed as detailed on page 13 of the Noise Assessment, dated 23rd January 2018;
5. The ventilation system installed in the kennelling area must be acoustically treated in order to attenuate any sound from within the building by a minimum of 46 dB(A).
6. Activity associated with the proposed development must not exceed the following sound levels within the garden areas of any nearby residential property - 35.5 dB LAeq,1 hour between 07:00 and 23:00 and 24.2 dB LAeq,15 min between 23:00 and 07:00, as specified in Table 9 on page 17 of the Noise Assessment, dated 23rd January 2018.
7. Within 28 days of being notified by the Planning Office of a justifiable noise complaint due to activity from the proposed development the applicant must arrange for a noise impact survey to be undertaken by a competent professional in accordance with the procedures laid down in 'BS4142:2014 Methods for Rating and Assessing Industrial and Commercial Sound'. The noise impact survey report must be submitted to the Planning Office, for review, within 28 days of completion.

Environmental Health concluded in their response that *"If the above conditions cannot be attached then Environmental Health would be of the opinion that this development is likely to have an adverse impact on the amenity of nearby residential properties due to noise"*. On review of the recommended conditions, the Planning Department do not have the capacity to enforce condition 2 given its nature. As detailed in the SPPS the Planning Authority must take into account a wide range of environmental and amenity considerations when managing development for example

the planning system has a role to play in minimising potential adverse impacts such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development. The area identified for dog walking in the additional information provided for Environmental Health and referenced in the recommended condition 2 above has not been included in the red line forming the application site, it is currently an agricultural field and a change of use of the land would be required for the proposed dog walking area. Given that the Planning Department cannot enforce all the recommended conditions and the area to be used for dog walking does not form part of the application site and cannot be considered for use with this proposal, it is concluded the proposal has the ability to impact adversely on the neighbouring residential amenity in terms of noise pollution when walking dogs.

The nature and scale of the proposal is not considered inappropriate to this countryside location. It is anticipated that all necessary services are available or can be provided without significant adverse impacts on the environment or character of the locality. Access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic and a consultation has been issued to the Department for Infrastructure Roads for their comments, see further below.

The external works proposed are not considered to offend the policy Criteria set out in CTY 13 and CTY14 of PPS21.

PPS3

Improvements are proposed to the existing access to the dwelling at No. 48 Leode Road which the Department for Infrastructure Roads (DFI Roads) has confirmed they are satisfied with.

Summary

When considered in the context of the policy criteria and the advice of Environmental Health, the Planning Department are of the opinion that the proposed development is not capable of approval. The building to be converted is not considered locally important and the use of proposal is considered would impact adversely on the amenity of neighbouring properties.

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 the Strategic Planning Policy Statement for Northern Ireland Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - in that the building proposed is not a locally important building suitable for conversion and
 - the reuse or conversion would unduly affect the amenities of nearby residents.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland in that the proposal would not support the core planning principle of improving health and well-being in that if approved the proposed use would impact adversely on the residential amenity of nearby properties in terms of noise pollution.

Date: 19th September, 2018

Planning Ref: LA07/2017/1619/F

Our Ref: 527

Additional Information submitted to Newry & Down District Council.

Change of Use Planning Permission for Proposed Dog Kennel including office and storage on Land adjacent to and immediately North of No. 48 Leode Road, Hilltown, Newry, BT34 5TJ.

Reasons for refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland Policy CTY4 of Planning Policy Statement 21; Sustainable Development in the Countryside in that:
 - In that the building proposed is not locally important building suitable for conversion and
 - The reuse or conversion would unduly affect the amenities of nearby residents.

We the agent have indicated that the proposal is for the reuse of an existing building and should therefore should be assessed under policy CTY4 – “The conservation and reuse of existing Buildings”. The only other policy that this application could have been applied under would have been CTY11 “Farm Diversification”. One of the main criteria for this policy was for the outbuilding to form part of farm business that was currently active. However, the outbuilding in question was not currently on an active farm business and this could not be fully in this particular case. Therefore, the application was applied and was to be assessed under CTY4.

We have indicated below each of the following criteria our response in how we believe this proposal meets each of the main criteria set out within Policy CTY4.

a) The building is of a permanent Construction;

The building in question is a long-established outbuilding which is seen as a permanent Construction. This proposal therefore meets the requirements of part (a) of CTY4.

b) The reuse or conversion would maintain or enhance the form, character and architectural features, design and setting of the existing building and not have an adverse effect on the character or appearance of the locality;

The reuse of this existing building for the proposal that has been made we have made sure that we had maintained the form, character, features, design and the setting of the existing buildings. For this proposal we have kept the changes to the external facade to a minimum to allow for the proposal to have no adverse effect on the character or appearance of the locality. This proposal therefore meets the requirements of part (b) of CTY4.

c) Any new extensions are sympathetic to the scale, massing and architectural style and finishes of the existing building.

For this proposal we have used the entire footprint of the existing out building with no need for extensions to be added onto the existing building. As a result, this proposal meets the requirements of part (c) of CTY4.

d) The reuse or conversation would not unduly affect the amenities of nearby residents or adversely affect the continued agricultural use of adjoining land or buildings.

This proposal is for the reuse of the existing outbuilding to accommodate new dog kennels including office and storage area. Planning having indicated that they believe that the proposed use of the buildings will be considered to cause adverse impacts on nearby residents in terms of noise pollution. Due to the nature of the proposal environmental health in their initial response had requested a noise impact assessment to be conducted after completing their site inspections of the site and identification of residential dwellings in close proximity

to the proposal. KRM Acoustics had completed a detailed noise assessment report and this had been provided to the planning department in February 2018. After a short period, there after Environmental Health had requested further information as can be seen within the Professional Planning Report from the planning department. This further information had been submitted by the agent on 28th March 2018 to Environmental Health. On the 1st May 2018 Environmental Health had placed 7 conditions on the application which would need to be met if a future approval was to be granted. These conditions were established to ensure that the amenity of nearby properties were to be protected from excessive noise. The 7 conditions are indicated below:

1. There are to be no outdoor runs to the kennels;
2. Each dog shall be walked individually during daytime hours only (07:00 to 23:00) in walking area indicated in figure 1 on page 11 of noise assessment, dated 23rd January 2018.
3. The fencing to screen the dog walking alleyway to be located and constructed as showing figure 2 on page 15 of the Noise Assessment, dated 23rd January 2018;
4. Both the kennelling area and the office to be constructed as detailed on page 13 of the Noise Assessment, dated 23rd January 2018;
5. The ventilation system installed in the kennelling area must be acoustically treated in order to attenuate any sound from within the building by a minimum of 46 Db(A).
6. Activity associated with the proposed development must not exceed the following sound levels within the garden areas of any nearby residential property – 35.5 Db LAeq, 1 hour between 07:00 and 23:00 and 24.2 Db LAeq, 15min between 23:00 and 07:00, as specified in table 9 on page 17 of the Noise assessment, dated 23rd January 2018.
7. Within 28 days of being notified by the Planning Office of a justifiable noise complaint due to the activity from the proposed development the applicant must arrange for a noise impact survey to be undertaken by a competent professional in accordance with the procedures laid down in BS4142:2014 Methods for Rating and Assessing Industrial and Commercial Sound. The noise impact survey report must be submitted to the Planning Office, for review, within 28 days of completion.

In discussion with the applicant they are happy that they will be able to meet all the above 7 conditions by environmental health.

e) The nature and scale of any proposed non-residential use is appropriate to a countryside location.

The nature and scale of the proposal is not considered inappropriate to this countryside location. The proposal therefore meets the requirements of part (e) of CTY4.

f) All necessary services are available or can be provided without significant adverse impact on the environment or character of the locality.

All the necessary services are available to service the proposal without a significant adverse impact on the environment or character of the locality. The proposal therefore meets the requirements of part (f) of CTY4.

g) Access to the public road will not prejudice road safety or significantly inconvenience the flow traffic.

The access out onto the public road has been dealt with by Transport NI as part of the planning application. Further to receipt of amended plans, DFI Roads had no objection to the proposal subject to the conditions being met (09/03/2018). The proposal therefore meets the requirements of part (g) of CTY4.

The planning Authority have referred to page 54 of the “The Strategic Planning Policy Statement 2015 (SPPS)” which states the following under Non-residential Development:

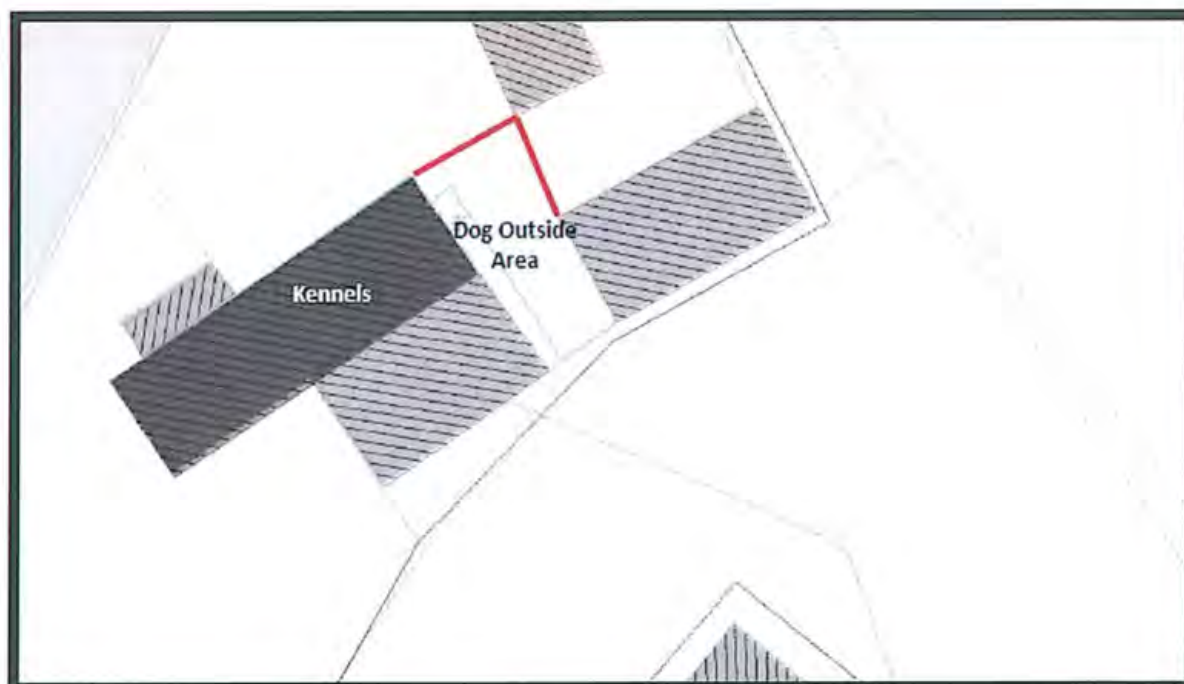
The Conversion and re-use of existing buildings for non-residential use:

“Provision should be made for sympathetic conversion and re-use of a suitable locally important building of special character or interest (such as former school houses, churches and older traditional barns and outbuildings) for a variety of alternative uses where this would secure its upkeep and retention, where the nature and scale of the proposed non-residential use would be appropriate to its countryside location.”

While the outbuilding in question may not be a building of special character or interest to it locally we would like to indicate that it is a well-established outbuilding which is was left vacant would be run down with its external appearance deteriorating over time which would only have negative impact on the character of the surrounding landscape. By allowing the applicant to obtain planning under policy CTY4 the white rendered walls and existing roof would all be made good and suitable for the new purpose of the building. As a result, the building would be retained and kept maintained by the applicant in the future. We therefore believe that the retention of the building will only help towards to its appearance within the countryside it is located.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland in that the proposal would not support the core planning principle of improving health and well-being in that if approved the proposed use would unduly affect the amenities of nearby residents.

The Planning Authority have indicated that on review of the recommended 7 conditions highlighted above from Environmental Health planning do not have the capacity to enforce condition 2 given its nature. One of the reasons for this is due to the dog walking area in which condition 2 refers to was not placed within the red line for this application. KRM Acoustics has amended their noise assessment report which has been enclosed with this report. This report has been amended with the dog walking area set back within the red line of the site for this current application. We would request that due to positioning of the dog walking area is now within the red line of the site that planning should be able to enforce condition 2 from Environmental Planning. Please see below screen shot of page 14 of the Noise assessment Report which highlights the dog outside area to be now within the red line of the site.



While the Planning Authority have noted that the “proposal would if approved would impact adversely on the residential amenity of nearby properties in term of noise pollution.” We would strongly argue that Environmental Health believe that the proposal would be satisfactory as long as all the conditions set can be met. As previously indicated the applicant will be able to stand over the conditions that have been set by Environmental Health. We would point out that while the outbuilding is vacant now the building was once used for the accommodation of farm livestock. Due to its history of being used to house animals, then there would have been a certain degree of noise pollution created from this previous use too. An independent professional had conducted their noise assessment which had placed the worst-case scenario for the maximum number of dogs that would be housed at one time within the proposed dog kennels. We would like to indicate that this is the first application in which we have seen that planning have over ruled the conditions that had been set by Environmental Health. If Environmental Health had of seen that the report sent by KRM Acoustics was not going to be satisfactory they would have been obligated to object to this proposal. This highlights that the proposal with the conditions applied would have been deemed acceptable and would therefore not have caused an adverse effect on the amenities of the residential properties within close proximity to the proposed site. We can only stress that all conditions set out will be fully



adhered too from day one of the dog kennels opening. We have other applications that Environmental Health have placed conditions on for example working hours of warehouses close to residential properties. In all these cases, planning has not over ruled the conditions set by Environmental Planning. This is why we strongly argue why this cannot be the case now for this particular application.

If you have any queries or you should require any further information please do not hesitate to contact me.

Yours Sincerely,

Neil Byrne

BSc (Hons)

Architectural Technologist

ITEM NO	9			
APPLIC NO	LA07/2018/0159/F	Full	DATE VALID	17/01/2018
COUNCIL OPINION	REFUSAL			
APPLICANT	Patrick Murphy 19 Ryan Road Mayobridge Newry BT34 2HZ		AGENT	CGDM Construction 27 Patrick Street Newry BT35 8EB
				02830250844
LOCATION	Land adjacent and immediately south of 19 Ryan Road Mayobridge Newry BT34 2HZ			
PROPOSAL	New dwelling house and garage on farm			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
			Addresses	Signature
			0	s 0
				Adresse
				s 0
				Signatures
				0

1. The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and 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 a development opportunity approved under applications P/2009/1354/O and P/2012/0941/F was sold off from the farm holding on 14th September 2017 (within 10 years of the date of the application).

2. The proposal is contrary to Policies CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal would, if permitted, create ribbon development along Ryan Road 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:** LA07/2018/0159/F
- Date Received:** 17th January 2018
- Proposal:** New dwelling house and garage on farm
- Location:** Land adjacent and immediately south of 19 Ryan Road,
Mayobridge, Newry, BT34 2HZ
The site is located 1 mile north west of Mayobridge.

Site Characteristics & Area Characteristics:

The site is a small roadside field which fronts onto Ryan Road and sits between two exiting bungalows – Nos. 17 and 19. The land rises to a hump near the middle of the field. It is enclosed by existing hedges, walls and fences. There are farm sheds and mushroom tunnels to the NE of the site, associated with No. 19. A business selling hydraulic fittings also operates from some of the sheds.



Site from Ryan Road with No. 19 beyond and sheds to rear

The site is located approximately 1 mile north west of Mayobridge in a relatively flat landscape. It is a rural area outside settlement limits on the Banbridge / Newry and Mourne Area Plan 2015. Development in the area consists of clustered farm groups and some dispersed single houses. The dominant land use is agriculture. There are two archaeological monuments close to the site: DOW047:053 and DOW047:111.

Site History:

There have been no previous planning applications on the site. There is extensive history relating to other land owned by the farm business which will be discussed below.

Planning Policies & Material Considerations:

- o The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- o Banbridge, Newry & Mourne Area Plan 2015
- o PPS3 – Access, Movement & Parking
- o DCAN15 – Vehicular Access Standards
- o PPS6 – Planning, Archaeology and the Built Heritage
- o PPS21 – Sustainable Development in the Countryside
- o Building on Tradition Sustainable Design Guide

Consultations:

DFI Roads – Visibility splays of 2.0m x 60m required in both directions. This requires set back of part of the front wall of No. 19. This has now been shown on amended plans and is acceptable subject to standard conditions regarding the provision and gradient of the access.

NI Water – Standard informatives.

Historic Environment Division – No archaeological objections.

DAERA – The farm business has been in existence for more than 6 years and claims single farm payment.

Objections & Representations:

The application was advertised in local newspapers on 15th February 2018. Two neighbouring dwellings were notified on 5th February 2018. No third party objections or representations were received.

Consideration and Assessment:

The main issues to be considered are the principle of a dwelling on the farm holding, siting, integration, design, road safety, archaeology and impacts on amenity of existing dwellings.

AREA PLAN

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 PPS21.

PRINCIPLE OF DEVELOPMENT

As there is no significant change to the policy requirements for dwellings on farms following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

PPS21 Policy CTY1 states that a range of types of development are acceptable in principle in the countryside. This includes farm dwellings if they are in accordance with Policy CTY10. There are three criteria to be met:

Criteria (a) requires that the farm business is currently active and has been established for at least 6 years. DAERA advised that the farm business was established for more than 6 years and claims single farm payment, the main means used to determine that the farm is active. Therefore criteria (a) is met.

Criteria (b) requires that no dwellings or development opportunities have been sold off the farm holding since the introduction of draft PPS21 in November 2008. For the purposes of this policy, "sold-off" will mean any development opportunity disposed of from the farm holding to any other person including a member of the family (paragraph 5.40). The Council requested further information on several development opportunities that had been approved on the farm holding in the last 10 years but were not declared on the P1C Form. Following clarification, the following are relevant to this consideration:

- A farm dwelling was approved in field 046/2 of the applicant's farm map under application P/2009/0945/O. The agent advised that this permission has lapsed and will not be implemented. It has not been sold off, though the penultimate paragraph of policy CTY10 does state that planning permission granted under this policy will only be forthcoming once every 10 years. This could rule out any approvals for farm dwellings on this holding until September 2019. However, upon consideration of the intent of this statement to prevent multiple farm dwellings in a 10 year period and in view of the fact that the previous permission has lapsed, this application should not be refused on this basis, as only one CTY10 dwelling could be erected if it was approved.
- A replacement dwelling was approved for the applicant under applications P/2009/1354/O and P/2012/0941/F in field 119/9. The agent has advised that this development opportunity is now built and was transferred to the applicant's brother John Murphy on 14th September 2017 – see Solicitor's letter received 7th June 2018. As this site was transferred out of the farm business to another family member within 10 years of the date of the application, the proposal fails on criteria (b) and no further farm dwellings will be acceptable in principle until September 2027. The application should be refused on criteria (b).

Criteria (c) requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm. The agent has submitted evidence that the buildings visible to the rear of the site are used as a hydraulic hose fitting business. There is no planning permission for this use and since they are used for

business purposes, they are not buildings on the farm for the purposes of this policy. There is a larger shed beyond them which is stated to be a farm shed and together with the existing farm dwelling (No. 19), would constitute a group of buildings on the farm. Since these buildings are in close proximity to the site and visually linked, criteria (c) is considered to be met.

As the proposal has failed to meet all the requirements of policy CTY10 it is unacceptable in principle as development in the countryside under policy CTY1 and paragraph 6.73 of the SPPS.

INTEGRATION AND DESIGN

Paragraph 6.73 of the SPPS confirms that "*Dwellings on farms must also comply with LDP policies regarding integration and rural character.*" In the absence of an adopted LDP these considerations must be assessed under policies CTY8, CTY13 and CTY14 of PPS21.

With regard to integration, the proposed dwelling is modest in scale (6.2m ridge height) and would not be unduly prominent in the landscape. It has suitable rural design features for the area including vertically proportioned openings, smooth render finish, natural slate roof covering, clipped eaves and verges and a chimney on the ridge. The glazed area to the rear is not a traditional rural feature, but would not warrant refusal given its location in relation to public views. The retention of the existing hedges would be conditioned and a new hedge would be provided to the rear of the visibility splays. The site levels originally submitted bore no reflection of the shape of the ground, but an accurate survey has now been submitted. The dwelling would benefit from the backdrop of the farm buildings when viewed from Ryan Road. The proposal is broadly in keeping with the requirements of policy CTY13.

Turning then to rural character, the proposed dwelling will not be unduly prominent in the landscape. It respects the traditional settlement pattern of the area (of clustered farm groups) and will not therefore create a suburban style build-up of development. However, it would create a ribbon of development by filling the entire gap between Nos. 17 and 19. To this extent, it is contrary to policy CTY14, and also CTY8. The SPPS confirms that farm dwellings must also comply with policies for rural character and this application fails to do so.

ACCESS

Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety. Paragraph 5.16 of Policy AMP2 makes reference to DCAN 15 which sets out the current standards for sightlines that will be applied to a new access onto a public road. In this case, visibility splays of 2.0m x 60m are required in both directions. This requires set back of part of the front wall of No. 19. This has now been shown on amended plans and is acceptable subject to standard conditions regarding the provision and gradient of the access.

SEWERAGE

Policy CTY16 states that Planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem. None of the supporting evidence referred to

under policy CTY16 has been submitted. Therefore it would be necessary to impose a negative condition in the event of approval that evidence of consent to discharge be submitted to and agreed in writing by the planning authority prior to the commencement of development. As the matter can be dealt with by condition, the failure to submit information on sewage treatment would not warrant refusal under CTY16.

ARCHAEOLOGY

There are two archaeological monuments surrounding the site: DOW047:053 and DOW047:111. Historic Environment Division was consulted and has no archaeological objections to the proposal under PPS6.

AMENITY

There is sufficient separation distance from surrounding dwellings to ensure that their amenity will not be adversely affected.

Recommendation: Refusal

Reasons for Refusal:

1. The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and 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 a development opportunity approved under applications P/2009/1354/O and P/2012/0941/F was sold off from the farm holding on 14th September 2017 (within 10 years of the date of the application).
2. The proposal is contrary to Policies CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal would, if permitted, create ribbon development along Ryan Road and would therefore result in a detrimental change to the rural character of the countryside.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

ITEM NO	10			Outline	DATE VALID	23/02/2018
APPLIC NO	LA07/2018/0401/O					
COUNCIL OPINION	REFUSAL					
APPLICANT	Mr & Mrs Colm Cunningham 24 School Road Ballymartin Kilkeel			AGENT	Glyn Mitchell Architectural Design 139 Ballinran Road Kilkeel BT34 4JB	
LOCATION	60m south of No 24 School Road Ballymartin Kilkeel				NA	
PROPOSAL	Proposed site for infill dwelling and domestic garage (Amended address)					
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions		
	0	0	0		0	
			Addresses	Signature	Adresse	Signatures
			0	s 0	s 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 Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap site sufficient only to accommodate a maximum of two houses and would, if permitted, result in the addition of ribbon development along School Road.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:

if permitted, the proposed building would be a prominent feature in the landscape;

the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the proposal to integrate into the landscape

the proposed dwelling would rely primarily on the use of new landscaping for integration;

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

the dwelling would, if permitted, be unduly prominent in the landscape;

the dwelling would, if permitted create or add to a ribbon of development and would therefore further erode the rural character of the countryside.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/0401/O

Date Received: 23.02.2018

Proposal: Proposed site for infill dwelling and domestic garage

Location: 60m south of No 24 School Road, Ballymartin, Kilkeel

Site Characteristics & Area Characteristics:

The application site is an existing agricultural field located within the country side, c. 350m north of the settlement limit of Ballymartin. The site is accessed via an existing agricultural gate and is bound to the west by an agricultural field which fronts onto a private laneway leading to further fields. The site is adjoined to the north east by No. 24 School Road and the red line area of this application extends into the garden area and access of No. 24. Field boundaries consist of traditional dry stone walls. The site is located within an Area of Outstanding Natural Beauty and within a Site of Local Nature Conservation Importance 156 (Ballymartin Moraine).



Photomontage of frontage along School Road

Planning Policies & Material Considerations:

This application will be assessed under the following policy considerations:

- The Strategic Planning Policy Statement for Northern Ireland
- Banbridge Newry and Mourne Area Plan 2015
- PPS2- Natural Heritage
- PPS3 Access, Movement and Parking
- DCAn15- Vehicular Access Standards
- PPS21- Sustainable Development in the Countryside
- Building on Tradition Sustainable Design Guide.

Site History:

P/2005/2194/O- Site for dwelling and garage. Permission Refused 19/04/2006

Consultations:

Transport NI- No objection in principle. Condition recommended.

NI Water- Generic response provided.

Objections & Representations:

Four neighbours were notified on 23/03/2018 plus an additional neighbour on 03/05/2018 and the application was advertised on 28/03/2018. No objections or representations have been received.

Assessment

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. It is within a Site of Local Nature Conservation Importance 156 (Ballymartin Moraine) and the Mourne and Slieve Croob Area of Outstanding Natural Beauty. Appendix 1D of the Plan's Countryside Assessment states that the SLNCI is designated for its geological features as a glacial landform. The erection of a house on the site is unlikely to have a significant effect on the underlying geology so no further consultation with regard to the SLNCI is required. 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 PPS21.

Policy CTY 1 of PPS 21 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. A number of instances when planning permission will be granted for an individual dwelling house are outlined. The Agent for this application argues that the proposal represents an infill opportunity in accordance with Policy CTY 8.

Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development, policy goes on to explain 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. The amplification text at paragraph 5.34 is clear that the gap is between houses or other buildings and that an exception will be permitted, even where the gap provides relief and a visual break in the developed appearance of the locality that helps maintain rural character.

In assessing proposals against policy CTY8, the PAC has set out four steps to be undertaken (Reference 2016/A0040):

- a) Identify if there is a substantial and continuously built up frontage
- b) Establish if the gap site is small sufficient only to accommodate a maximum of two houses
- c) Determine if the proposal would respect the existing development pattern in terms of size, scale, siting and plot size
- d) Assess the proposal against other planning and environmental requirements.

The application is located along School Road, to the south west there is a dwelling and garage both with frontages to the road. To the north east of the site there is a further three dwellings. As there is a line of more than three buildings with a common frontage along School Road there is a substantial and continuously built up frontage and the proposal meets the first element that is required in order to qualify as an infill site.

The frontage of the site measures approximately 36.5m; however in policy terms the critical issue is the size of the gap between the buildings. The distance between the dwelling to the south west and that to the north east is approximately 149.8m. The average frontage for buildings along School Road measures approximately 49.3m, given the distance between buildings and the average frontage it is clear the gap site is not small and could accommodate three dwellings. Consequently, the application site does not constitute a gap site, set out in Policy CTY 8 as acceptable in the countryside.



Calculation of frontages

Policy CTY 13 requires new buildings in the countryside to be visually integrated into the surrounding landscape. A new building will be unacceptable where it will be a prominent feature in the landscape, where it lacks long established natural boundaries or is unable to provide a suitable degree of enclosure or where it relies primarily on the use of new landscaping for integration. The application site lacks long established natural boundaries. It has only two boundaries which consist of a traditional dry stone wall, there are no existing rear or north eastern boundaries. A new building would rely on new landscaping for integration and would appear as a prominent feature along this roadside, flat site. The proposal fails to comply with Policy CTY 13.

Policy CTY 14 states that 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. A new building will be unacceptable where it is unduly prominent in the landscape and where it creates or adds to a ribbon of development. As previously states, the site lacks established natural boundaries and a new dwelling would appear as a prominent feature in the landscape. A new dwelling would also add to the ribbon of development along School Road. The proposal fails to comply with criterion (a) and (d) of Policy CTY14.

Recommendation:

The proposal is contrary to Policy CTY1, CTY8, CTY13 and CTY 14 of PPS 21 and recommended for refusal.

Reasons for Refusal:

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 Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap site sufficient only to accommodate a maximum of two houses and would, if permitted, result in the addition of ribbon development along School Road.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - If permitted, the proposed building would be a prominent feature in the landscape;
 - The proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the proposal to integrate into the landscape
 - The proposed dwelling would rely primarily on the use of new landscaping for integration
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - the dwelling would, if permitted, be unduly prominent in the landscape;
 - the dwelling would, if permitted create or add to a ribbon of development

and would therefore further erode the rural character of the countryside.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

Our Ref: 18/04

Your Ref: LA07/2018/0401/O

Newry, Mourne and Down District Council
Planning Office
O'Hagan House
Monaghan Row
Newry
BT35 8DL



139 ballinran road, kilkeel, co down
t: 02841 769748 m: 07803177197

18th September 2018

Dear Sir/Madam,

Further to the above-referenced application and the Planning Authority's recommendation of refusal on four grounds, I am writing in full support of Mr. and Mrs. Colm Cunningham's proposal and rebutting, in turn, each of the Department's reasons for refusal.

The first recommended reason for refusal states:

"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."

With regards to the above-quoted recommended reason for refusal, please note that if the second reason for refusal can be overcome then the first recommended reason for refusal will also consequently be overcome; therefore, I will now deal with the second recommended reason for refusal, which states:

"The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap site sufficient only to accommodate a maximum of two houses and would, if permitted, result in the addition of ribbon development along School Road."

The prevailing policy under consideration for this particular application is Policy CTY 8 – Ribbon Development, of Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside.

Policy CTY 8 states,

"Planning permission will be refused for a building which creates or adds to a ribbon of development.

"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. For the purpose of this policy 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."

The application site occupies a position between two dwellings, namely 20 School Road, including its immediately adjacent detached domestic garage, and 24 School Road. Given the presence of the aforementioned dwellings and garage, in addition to two further dwellings located to the site's north-east, namely 26 School Road, and its associated domestic buildings, and 28 School Road, and the location and overall plot size of the application site, the proposal occupies a small gap sufficient only to accommodate two dwellings within an otherwise substantial and continuously built up frontage.

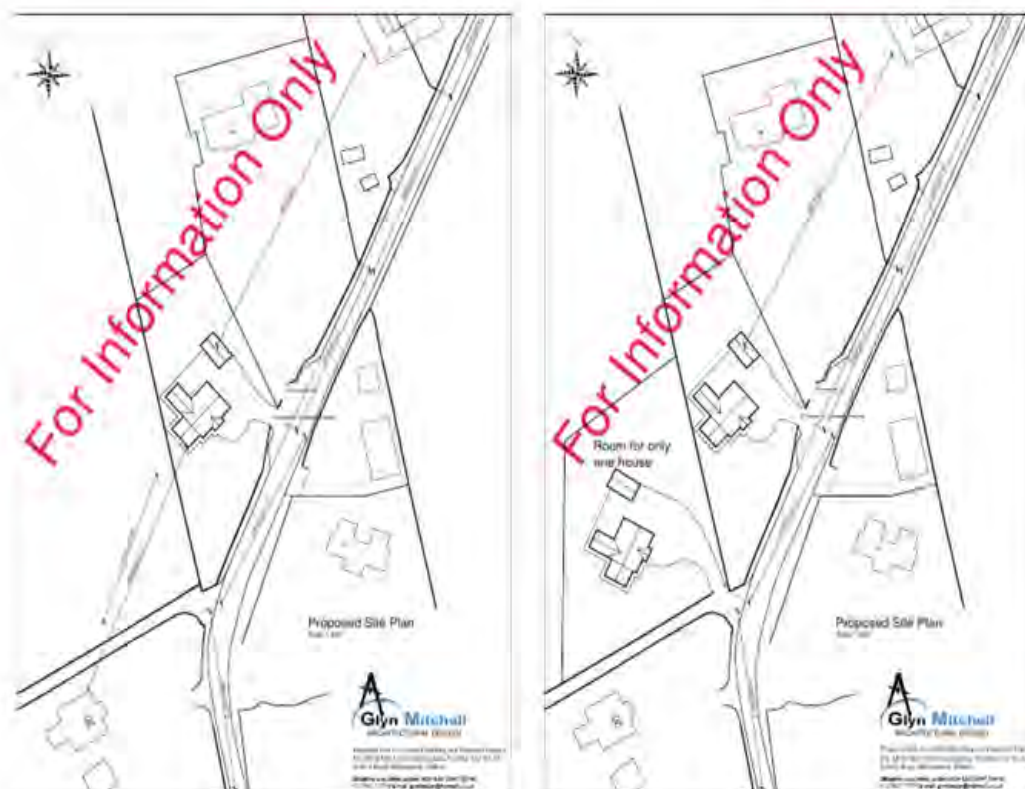
Specifically, in terms of the "substantial and built up frontage", travelling in a south-westerly direction along School Road, there is a line of buildings, namely 28 School Road, 26 School Road and its associated domestic outbuildings, and 24 School Road, which is immediately followed by the small gap site which comprises the application site and a subsequent slender portion of neighbouring field, adjacent to which is 20 School Road and its detached garage. Each of these dwellings and associated buildings share a common frontage and are also visually linked.

Please refer to the image below which displays the frontage widths of the dwellings referred to, in addition to the frontage width of the small gap site:



Frontage A is 28 School Road; frontage B is 26 School Road; frontage C is 24 School Road; frontage D is the small gap site, within which the application site is located; frontage E is 20 School Road. The average road frontage along this particular stretch of substantially built up road frontage is 49.79 metres.

The Case Officer has stated in their report that “the critical issue is the size of the gap between the buildings” (i.e. between 20 School Road and 24 School Road); in this regard, please refer to the two indicative site layout plans displayed below this paragraph, which show the approximate location of a dwelling on the application site, in addition to the distance it is located from the adjacent dwelling at 20 School Road (*the left-hand image*), and a second dwelling in the adjacent space (*the right-hand image*). As displayed on the aforementioned right-hand image below, the gap is such that it would be possible to accommodate only one further dwelling between the application site and the existing dwelling at 20 School Road, in a location which would respect the existing building line and pattern of development along this particular stretch of School Road.



The left-hand image displayed above shows the approximate location of a dwelling on the application site and its distance from the adjacent dwelling at 20 School Road; the right-hand image displayed above shows the approximate location of a dwelling within the remaining gap. It is clearly displayed that the gap between 20 School Road and 24 School Road is such that could accommodate only two dwellings, while respecting the existing pattern of development.

Given the above-detailed facts, the submitted proposal meets the requirements of Policy CTY 8 in that the proposed dwelling would be located within a small gap site, between two existing dwellings, sufficient only to accommodate up to a maximum of two dwellings, while respecting the existing pattern of development, and therefore overcomes the Department's second, and consequently first, recommended reasons for refusal.

The third recommended reason for refusal states:

"The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:

- *If permitted, the proposed building would be a prominent feature in the landscape;*
- *The proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the proposal to integrate into the landscape*

- *The proposed dwelling would rely primarily on the use of new landscaping for integration”.*

Given that the submitted proposal is an Outline planning application, the specific considerations of size, scale and overall design would only be thoroughly addressed in the formulation of a subsequent Reserved Matters application, and it is therefore entirely premature to state that “the proposed building would be a prominent feature in the landscape”.

In addition, the existing character of the area is made up of a number of large dwellings and associated buildings located within close proximity of School Road and the application site, including the adjacent 20 School Road, which is a relatively recently constructed large two-storey dwelling and garage, and 25 School Road, which is located immediately opposite the application site, and is a large two-storey dwelling still under construction, adjacent to an associated outbuilding. The proposed dwelling would be conscientiously positioned and designed, and would integrate more successfully than the two dwellings and associated buildings referred to.

With regards to the application site’s boundaries please note that, rather than lacking “long established natural boundaries” as erroneously stated within the third recommended reason for refusal, the site possesses two existing and long-established boundary definitions (namely, it’s roadside and west-south-western side boundaries), which consist of indigenous dry stone walling, and also possesses a third existing long-established boundary which is shared with the adjacent dwelling at 24 School Road. In this regard, please note that the boundary definition of fields and the curtilage of dwellings, located within both the immediate and the wider area surrounding the application site, consists of indigenous dry stone walling. Therefore, the site’s boundary definitions are entirely in keeping with the character of the immediate and the wider area surrounding the application site. In addition, given that dry stone walling is the predominant boundary definition throughout the Mourne, it would only take approximately one working day in order to provide the application site with a rear boundary definition, which would entirely respect the character of the surrounding area.

Furthermore, the existing and long-established side boundaries can be retained and the roadside boundary can be replaced behind the required visibility splays. Rather than relying on new landscaping, as erroneously stated within the third recommended reason for refusal, the proposed dwelling would enjoy the presence of existing boundary definitions entirely in keeping with the character of boundary definitions located throughout the Mourne.

Given the above-detailed facts, the submitted proposal meets the requirements of Policy CTY 13 in that the proposed dwelling would be conscientiously positioned and designed so as to integrate successfully into this area, and the application site possesses two boundary definitions of indigenous dry stone walling, a shared party side boundary which can be retained, and it would only take approximately one working day in order to provide the application site with a rear boundary definition of indigenous dry stone walling, which would

entirely respect the character of the surrounding area.

The fourth and final recommended reason for refusal states:

"The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

- *the dwelling would, if permitted, be unduly prominent in the landscape;*
- *the dwelling would, if permitted create or add to a ribbon of development and would therefore further erode the rural character of the countryside."*

As previously stated, given that the submitted proposal is an Outline planning application, the specific considerations of size, scale and overall design would only be thoroughly addressed in the formulation of a subsequent Reserved Matters application, and it is therefore entirely premature to state that "the dwelling would, if permitted, be unduly prominent in the landscape".

In addition, the considerations and potential concerns regarding ribbon development expressed within the second bullet point, quoted above, have been thoroughly addressed within this letter, under the second recommended reason for refusal. Rather than creating or adding to a ribbon of development, the submitted proposal entirely meets the requirements of Policy CTY 8, being located within a small gap site sufficient only to accommodate up to a maximum of two dwellings, while respecting the existing pattern of development.

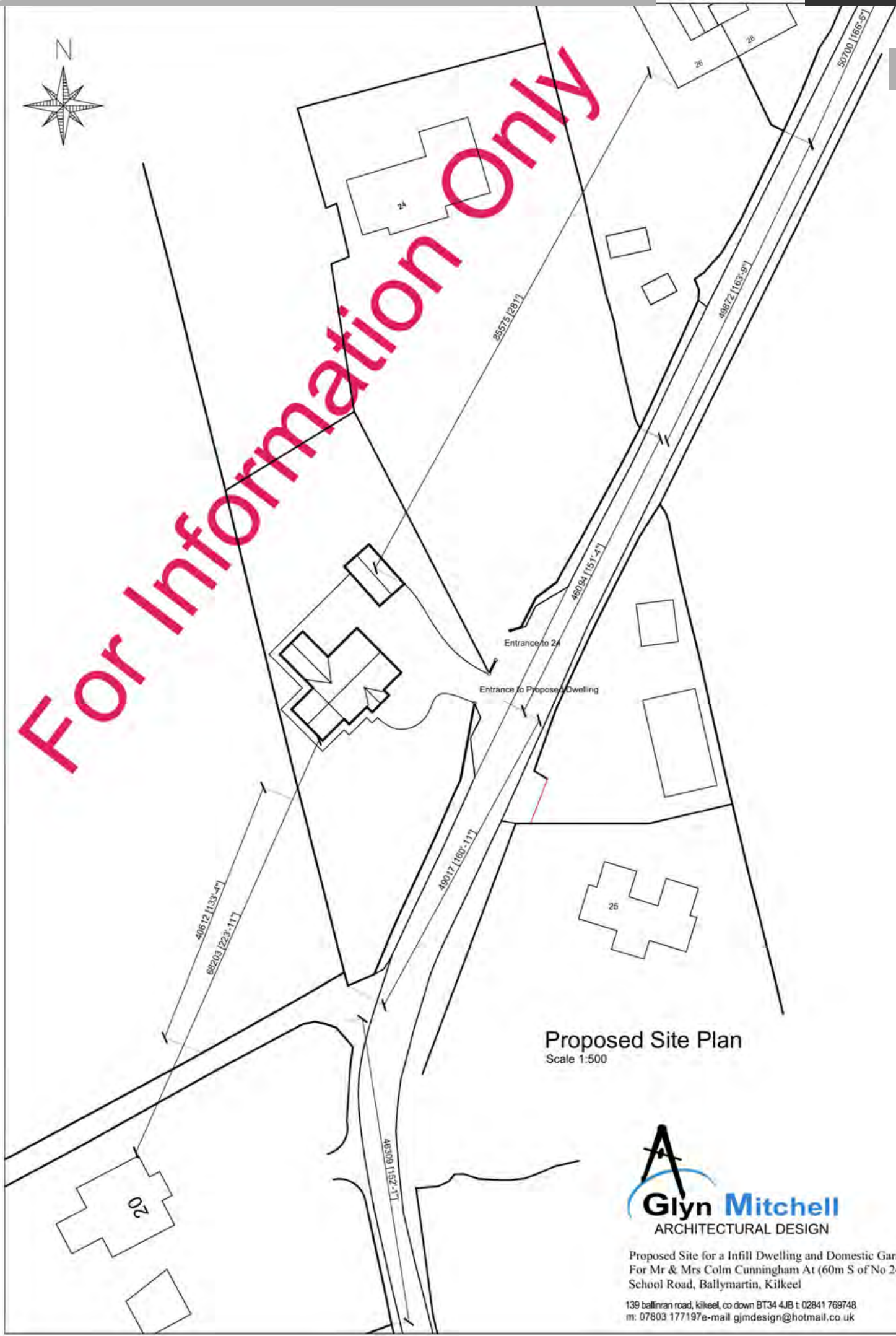
In conclusion, for the great many reasons stated above, Mr. and Mrs. Cunningham's application meets the criteria of all relevant planning policies, and we therefore request that the Department looks favourably upon this policy-compliant proposal and recommends for approval.

Yours faithfully,

John Law BSc (Hons.) Dip. TP



For Information Only



Proposed Site Plan
Scale 1:500



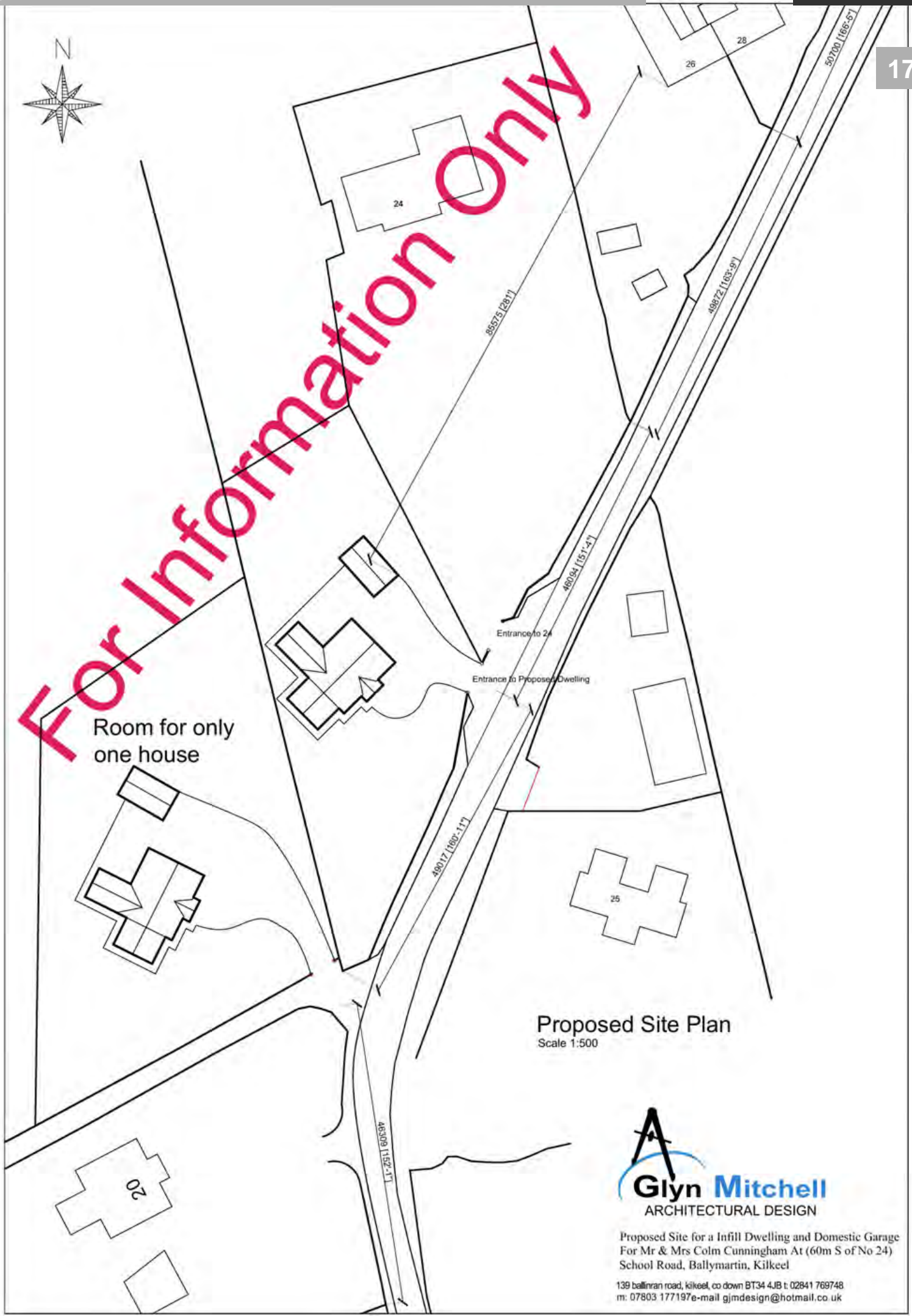
Proposed Site for an Infill Dwelling and Domestic Garage
For Mr & Mrs Colm Cunningham At (60m S of No 24)
School Road, Ballymartin, Killeel

139 ballinran road, killeel, co down BT34 4JB t: 02841 769748
m: 07803 177197e-mail gjmdesign@hotmail.co.uk



For Information Only

Room for only one house



Proposed Site Plan
Scale 1:500



Proposed Site for an Infill Dwelling and Domestic Garage
For Mr & Mrs Colm Cunningham At (60m S of No 24)
School Road, Ballymartin, Killeel

139 ballinran road, killeel, co down BT34 4JB t: 02841 769748
m: 07803 177197e-mail gjmdesign@hotmail.co.uk

ITEM NO	11			
APPLIC NO	LA07/2018/0698/O	Outline	DATE VALID	11/05/2018
COUNCIL OPINION	REFUSAL			
APPLICANT	Niamh D'Arcy 4 Ballykeel Road Mullaghbawn Newry BT35 9UA		AGENT	
LOCATION	Adjacent and to West of No. 4 Ballykeel Road Mullaghbawn Newry BT35 9UA			NA
PROPOSAL	Dwelling house (infill)			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	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 Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Ballykeel Road and is not considered to represent an exception to the policy.

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 buildings and add to a ribbon of development which would therefore result in a detrimental change to the rural character of the countryside.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy NH6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/0698/O

Date Received: 11.05.2018

Proposal: The proposal seeks Outline permission for an infill dwelling.

Location: Adjacent and to West of No. 4 Ballykeel Road, Mullaghbawn, Newry, BT35 9UA

Site Characteristics & Area Characteristics:

The site includes a rectangular roadside portion of a larger agricultural field. The land rises to the NE where a single storey dwelling and garage (no.4) is situated adjacent the site with a larger shed located immediately East of the site. The area is rural in character however development pressure is increasing within the vicinity of the site. The site lies within the rural area / AONB as depicted in the Banbridge Newry and Mourne Area Plan 2015.

Site History:

N/A

Consultations:

Transport NI – no objections subject to compliance with RS1 form.
NI Water – Generic response, no objections.
Historic Environment Division – No objections.

Objections & Representations

2 Neighbours notified on 12.06.2018 and the application was advertised on 30.05.2018. No objections or representations received.

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 2
Planning Policy Statement 3 / DCAN 15.
Planning Policy Statement 6
Building on Tradition

Consideration and Assessment:

The site is located in the countryside/AONB as depicted in the Banbridge Newry and Mourne Area Plan 2015. There are no objections with regard to the area plan to the proposed development.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside, but makes an exception for a small gap site to accommodate up to a maximum of 2 dwellings if in accordance with policy CTY8. The policy requires the proposed development to be within an otherwise substantial and continuously built up frontage. This is defined by a line of 3 or more buildings in an otherwise substantial and continuously built up frontage providing it respects the development pattern along the frontage.

The gap between No.4 Ballykeel Rd and the large shed close to the junction of the Mill Rd is considered of a size that would accommodate a maximum of two dwellings while remaining respectful to the surrounding plot sizes. The proposed site therefore meets the definition of a small gap site according to the exception in policy CTY 8.

The policy requires the proposed development to be within an otherwise substantial and continuously built up frontage. This is defined by a line of 3 or more buildings along a road frontage without accompanying development to the rear.

Whilst the large shed close to the junction of the Mill Rd/Ballykeel Rd and No.4 Ballykeel Rd both have a frontage to the Ballykeel Rd along with the proposed site, this only represents 2 buildings and not the requisite 3 as defined by the exception to policy. The garage to No.4 Ballykeel Rd is set back and is clear of the rear building line of the dwelling. Given the spatial relationship of the dwelling and garage, the garage does not constitute a building along the frontage and instead reads subordinate to and part of No.4 Ballykeel Rd. This position is consistent with PAC statements 2017/A0204 and 2016/A0005.

For the above reason the proposed site is not considered to represent an exception to ribbon development, but instead reads as an extension of ribbon development when viewed alongside existing and approved buildings in the area.

Consequently as the proposal does not meet any exceptions listed under Policy CTY1 and there are no over-riding reasons why this dwelling is essential at this location, the proposal is contrary to policies CTY1 and CTY8 of PPS21.

Whilst the site is not considered to offend the policies of CTY13, the proposal is considered to add to a ribbon of development along Ballykeel Road and result in a suburban style build up when viewed with existing buildings. The proposal is therefore considered contrary to parts (b) and (d) of policy CTY14.

Sewage arrangements are minimal at Outline however a condition could be added to ensure Consent to Discharge is obtained before work commences. The proposal is in general compliance with CTY16.

Policy NH6 of PPS2: Natural Heritage is applicable for this application as the site lies within the Ring of Gullion AONB. For the above reasons the siting of the proposal is considered unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality. The proposal therefore fails policy NH6 of PPS2.

Historic Environment Division has confirmed it has no objections to the proposal with regard to Archaeological Site and Monument designation. They do however require consultation at RM stage, if applicable. The proposal is in compliance with Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

Transport NI has no objections with regard to Planning Policy Statement 3: Access, Parking and Movement provided any RM application adheres to the attached RS1 form.

Recommendation:

Refusal

Reasons:

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 CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Ballykeel Road and is not considered to represent an exception to the policy.

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 buildings and add to a ribbon of development which would therefore result in a detrimental change to the rural character of the countryside.

4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy NH6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

Case Officer

Authorised Officer

Rebuttal of Recommendation for Refusal of Planning Application Reference LA07/2018/0698/O

This is an Infill Application for a Dwelling Adjacent and west of No 4 Ballykeel Road, Mullaghbawn, Newry, BT35 9UA.

There are 4 reasons for refusal as detailed on the Schedule. The main issue is Refusal reason 2, which states, "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 would, if permitted, result in the addition of ribbon development along Ballykeel Road and is not considered an exception to the Policy." If this proposal were to be considered an exception then the other refusal reasons are null and void.

It is noted that the applicant was advised that this was refused on Precedent and two Planning Appeals were quoted. These are as follows, Planning Appeals Commission References 2016/A005 and 2017/A0204. The Case Officer has stated that because of the set back of the garage, adjacent and to the East of No 4; the garage does not constitute a building along the frontage. Photographs taken, by the Applicant, from Ballykeel Road before the application was made would refute this.

In the case of Planning Appeal 2017/A0204 Commissioner Watson has stated "Despite there being no requirement in policy that all buildings have to lie on the same specific building line, the garages and outbuildings to Nos. 67 and 69 do not lie on the frontage as they are set behind or largely behind the host dwellings, thus do not lie on or contribute to being part of the frontage. The Garage at No 4 Ballykeel road does not lie behind or largely behind the dwelling, but adjacent and to the side, and to use this Appeal Precedent in this case is incorrect as it is not a similar situation.

In relation to Planning Appeal 2016/A0005 the main issue, as pointed out by Commissioner Watson, was the absence of a third building as the applicant was using a site approved, and built to sub floor level, as a third building and the Planning Appeals Commission did not sustain this. Notwithstanding that he has made reference to an outbuilding at 36 being subordinate to and part of No 36 the main issue was the use of foundations and sub floor as a dwelling. As per our previous contention we feel that the Appeal Precedent in this case is incorrect as it is not a similar situation.

If read correctly the garage, adjacent and to the side of No 4, does constitute part of the frontage and should be considered as an Infill Site under Policy CTY8.

In relation to the location of the proposed dwelling it is situated adjacent to Miss D'Arcy's parents' house and will be the only opportunity that she has to remain living in the community in which she has grown up. It is also situated within walking distance of her elderly grandparents' house for whom she is part of the extended family that are responsible for providing essential care.

Please see attached 2 number photographs.





ITEM NO	14				
APPLIC NO	P/2013/0242/F	Full	DATE VALID	27/03/2013	
COUNCIL OPINION	APPROVAL				
APPLICANT	MJM Group Ltd		AGENT	O'Callaghan Planning Unit 1 10 Monaghan Court BT35 6BH 02890434333	
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 distributor road, planting of acoustic barrier along distributor road, proposed landscaping, open space, car parking, site and access works. (Amended plans/ scheme including a reduction in the site area boundary, amendments to the garden areas of proposed site numbers 78-83 and amended landscaping details along the southernmost boundary of the site/ west of Watsons Road).				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	209	2	0	0	0
			Addresses	Signature	Addressé
			0	s 0	s 0
					Signatures 0



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: P/2013/0242/F
Date Received: March 27th 2013

- 1.0. Proposal Description: 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 distributor road, planting of acoustic barrier along distributor road, proposed landscaping, open space, car parking, site and access works. (Amended plans/ scheme including a reduction in the site area boundary, amendments to the garden areas of proposed site numbers 78-83 and amended landscaping details along the southernmost boundary of the site/ west of Watsons Road).**
- 2.0. Location:**
 - 2.1 Lands at Watson Road/Dorans Hill Newry, including lands to the east of Watsons Road
- 3.0. Site Characteristics & Area Characteristics:**
 - 3.1. The application site is composed of 2 main sections, one section to the east of Watsons Road and one section to the west of Watsons Road.
 - 3.2. The smaller section of the site is located to the east side of Watsons Road. This eastern section of the site has an approximate area of 16053m². A modest detached bungalow once existed along the roadside on the eastern side of Watson's Road but has now been demolished. This east section of the site is composed of 4 no. fields. Overall its topography falls from the roadside towards the rear boundary in an eastern direction. It also falls from the south boundary towards the north boundary.
 - 3.3. The boundaries of the roadside field are defined by mature trees and hedging. A small post and wire fence runs through this field in a central position from east to west. The boundaries of the adjoining field to the east are similarly defined by trees and hedging. The east, north and south boundaries of the field to the east of this again are also similarly defined. The east boundary of this field is defined by sparse hedge cover and a post and wire fence. Hawthorn Hill housing development is located immediately to the east of the site adjacent to this field. The dwellings of Hawthorn Hill are located at a lower level than the site.

- 3.4.** The site also includes the adjoining field to the south of this. The boundaries of this field are defined by mature trees. This field is surrounded by residential development to the east, south and west. No. 24 Hawthorn Hill and No. 16 Watsons Road are located to the south of this field, nos. 10 and 12 Watsons Road are located to the west and Nos. 28 and 30 Hawthorn Hill are located to the east.
- 3.5.** The west section of the site comprises a much larger area of approximately 111915m². It incorporates 8 no. fields. Watsons Fort, a Rath or defended farmstead dating from the Early Christian Period 600-1100AD is located in this west section of the site. With the presence of the fort, the topography of these fields rises steeply towards a central position of the site.
- 3.6.** A number of derelict farm buildings formerly stood a short distance west of the junction of Glen Hill and Watsons Road. The site includes 3 no. fields to the north of these former buildings which adjoin Watsons Road. Brannock Heights housing development is located to the east of these fields on the opposite side of Watsons Road. The site also incorporates 2 large fields set to the rear/west of these roadside fields. It also incorporates one roadside field set to the south of the former derelict farm buildings and the 2 adjoining large fields to the west of this roadside field.
- 3.7.** The boundaries of these fields are defined by native hedgerows and trees. The roadside boundary along Watsons Road is defined by trees and the north roadside boundary along Doran's Hill is mainly defined by hedgerow.
- 3.8.** The site is located within the development limit of Newry in accordance with the Banbridge/Newry and Mourne Area Plan 2015. The section of the site which lies to the east of Watsons Road is zoned for housing development (NY53). The south-west section of the site has been designated as a Local Landscape Policy Area (NY133). The area of the site to the east and north of this LLPA on the west side of Watsons Road has also been zoned for housing development. (NY 19). The site was first zoned for housing development in the previous Newry Area Plan 1986-1999.
- 3.9.** The development limit of Newry runs along the site's west boundary. The land to the west of the site is undeveloped green fields. A playing field and tennis court is located immediately north of the east section of the site. The area to the north of this is characterised by residential development. Housing developments located in this area include Brannock Heights, Glen Court and Brannock Close. The area to the south of the east section of the site is also characterised by residential development. 7 no. detached dwellings which front onto Watsons Road are located along a 215m stretch of Watsons Road to the south of the east section of the site. Other residential development further south of this includes Lisdrum Court and Liska Manor. Hawthorn Hill housing development is located to the east of the site.
- 3.10.** Planning permission has been approved for a playing field a short distance north-west of the site under P/2009/1135/F. Full planning permission was also approved here for the erection of a community sports facility under

P/2010/0678/F. Two football pitches were approved at the same location under P/2012/0676/F.

4.0. Nature of Proposal

- 4.1.** This application seeks full planning permission for the erection of a housing development incorporating 200 no. units comprising 61 detached, 126 semi-detached, 13 townhouses (some with garages) improvements. The application also includes some major roadworks including the provision of a new roundabout at the junction of Watson's Road and Doran's Hill with a new distributor road running through the development with side roads branching off this to serve residential estates, this road will connect with Watson's Road near the southern end of the main site, the existing Watsons Road will be severed at this point, and will instead connect to the distributor road. The existing Watsons Road will be widened and will also be used to serve new residential estates, as will Doran's Hill to the west of the proposed roundabout, there will also be the provision of a footpath on Glen Hill. The proposal also includes the retention of the rath as an area of open space within a protected zone, there will be another area of open space along the side of the distributor road.

5.0. Site History:

- **Section of site to east of Watsons Road:**

P/2009/0078/F: An application seeking full planning permission for a Housing Development consisting of 28 dwellings (13no. detached dwellings, 6 blocks of semi-detached dwellings, and 1 townhouse block with 3no. dwellings) with associated site works was withdrawn on 15.11.2012.

P/2007/0329/O: An application seeking outline planning permission for a housing development was withdrawn on 10.09.2012.

P/2006/1590/F: An application seeking full planning permission for the erection of a housing development (4 No. Houses) was withdrawn on 02.06.2008.

- **Section of the site to west of Watsons Road:**

P/2006/1624/F: An application seeking full planning permission for the erection of residential development comprising 32 No. dwellings and 13 No. apartments (Phase 2) was refused by the Department on 06.01.2009. An appeal was subsequently lodged with the Planning Appeals Commission (PAC). The appeal was allowed on 28.07.2009.

P/2004/2131/F: An application seeking full planning permission for the erection of a housing development comprising 161 dwellings was allowed by the Planning Appeals Commission on 16.11.2005.

P/2001/0821/F: An application seeking full planning permission for the erection of housing development (amended proposal for 161 dwellings) was withdrawn on 30.08.2006.

- **Adjacent to Application Site**

Full planning permission was approved for the erection of 77 dwellings and associated access roads, parking and landscaping on 08.05.2013 in the land immediately south of the west section of the site.

6.0. **Planning Policies & Material Considerations:**

Strategic Planning Policy Statement

Banbridge/Newry and Mourne Area Plan 2015

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

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

Planning Policy Statement 7 Quality Residential Environments.

Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation

Planning Policy Statement 15: (Revised) Planning and Flood Risk

7.0. **Consultations:**

7.1. Roads Service/Transport NI: 13th November 2015, No objections subject to conditions and informatives to be included under the Planning Order; No formal objection raised to revised proposal. Detailed issues to be addressed, including the use of planning conditions, if required.

7.2. Environmental Health Department of Newry and Mourne District Council: No objections to this proposal provided the development is connected to the public sewerage system.

7.3. Northern Ireland Housing Executive No objection, subject to the provision of 12 social housing units in line with key site requirement for Housing Zoning NY53.

It confirmed the need for family housing and requested the housing mix should be as follows:

- 7 units should be 2 bed, 4 person houses
- 5 units should be 3 bed, 5 person houses

It requested an amended plan identifying the location of the social housing units. It also recommended the developer should discuss the layout and design of the dwellings with a housing association.

7.4. Rivers Agency Advised the site is in close proximity to the Glen River which is at capacity for existing flows, due to the inadequacy of culverts downstream. It also advised the site is affected by an undesignated watercourse which flows along the northwest boundary. The site is not located

within a flood plain and there is no record of flooding at the site. In line with annex d15 of PPS15 it requested the applicant to submit a drainage assessment. Following consideration of the submitted drainage assessment, Rivers Agency confirmed no objections to this proposal from a drainage and flood risk perspective.

7.5. Protecting Historic Monuments of Northern Ireland Environment Agency

Advised that the application site contains the above and below ground archaeological remains of 2 recorded archaeological sites. One of these is Watsons Fort, a Rath or defended farmstead dating from the Early Christian Period 600-1100 AD. The other is the site of an enclosure which may have functioned as a Rath. The applicant submitted an archaeological impact assessment with this application. It was agreed that archaeological mitigation will be required prior to development. The nature and scale of this mitigation should be addressed at licensing stage.

Protecting Historic Monuments raised concerns regarding the high density of housing in close proximity to Watsons Fort in particular the housing to the south-west of the Rath. They advised the ridge height or the ground level of the dwellings here should be reduced to ensure the monument is integrated within the proposed development. The Planning Department has assessed these comments but consider that limited weight can be attached to them in view of the previous planning history on the site.

7.6. Natural Heritage of Northern Ireland Environment Agency Advised there is evidence is substantial badger activity throughout the site and several active sett entrances are located along field boundaries. It also advised highly suitable smooth newt habitat is located in the west of the site. The site provides good bat foraging habitat and a number of species were present in initial bat activity surveys.

The badger setts have been identified on the detailed housing layout plan. NIEA has also proposed the imposition of a number of negative planning conditions intended to protect 'protected species', including the submission of a detailed Wildlife Management Plan for agreement by the Planning Authority prior to commencement of development at each stage in the implementation of the proposal.

7.7. Water Management Unit of Northern Ireland Environment Agency Initially raised concerns that the sewage loading associated with the proposed development would cause Newry Waste Water Treatment Works (WWTW) to operate above its capacity. It recommended the Department consult NI Water to determine if the WWTW would be able to cope with the additional load or whether the capacity would have to be increased.

7.8. NI Water They did not raise any objections to the proposed development and in response to WMU's comments specifically stated that there is sufficient capacity in the local sewage infrastructure to cater for this development.

8.0. Objections & Representations

- 8.1.** 216 addresses were notified under the neighbour notification scheme, to date a total of 211 representations have been received, 209 of these were objections and 2 were letters of support. These have been fully considered as part of the Planning Department's assessment of the application, as detailed below.
- 8.2.** Many of the objections are of a pro forma type and raise concerns on issues such as the inadequacy of the local infrastructure, road safety, lack of provision of footpaths, street lighting, green spaces and community facilities, impact on the rath and on badger setts and other flora and fauna, the proposed scheme not respecting the context of the surrounding area.
- 8.3.** Objections have also been received from the landowner of a development that is to be constructed adjacent to the southern boundary of the site; the issues of concern relate to a "tie-in" between the footpaths to be provided along Watson's Road in accordance with Roads Service's requirements, the objector also raises issues of procedural fairness.
- 8.4.** There are a number of individual objections which raise more specific issues including the arrangement of the provision of social housing across the development, the possibility of persons using the development to gain access to the playing fields to its north, the difficulties experienced by residents in Ballinlare Cottages, which are situated to the north east of the site, in obtaining parking to and safely entering and exiting their properties. However this estate is situated outside of the boundary of the application site and therefore this area does not form any part of the application site and road improvements in this area cannot be required by the current application. More recently a number of objections have been received stating that as the application has been under consideration for over three years, the archaeological and flora and fauna impact assessments that were submitted with it are now outdated and that fresh assessments should be carried out.

9.0. Consideration and Assessment:

Strategic Planning Policy Statement

- 9.1.** The SPPS provides strategic guidance for the preparation of new Local Development Plans by Councils, the site is in an approved residential development and therefore there are no implications for this site from the SPPS.

Banbridge/Newry and Mourne Area Plan 2015.

- 9.2.** The site is located within the development limit of Newry. The section of the site which lies to the east of Watsons Road is zoned for housing development (NY53). The key site requirements of this are:

-A minimum of 12 dwellings shall be provided for social housing.

-Housing development shall be a minimum gross density of 20 dwellings per hectare.

-Access shall be onto Watsons Road, which shall be realigned and widened to agreed standards.

-A footway provided along the entire site frontage onto Watsons Road.

- 9.3. The proposal complies with all of these key site requirements and appropriate planning conditions shall be applied as and when necessary.
- 9.4. The south-west section of the site has been designated as a Local Landscape Policy Area (NY133).
- 9.5. Those features or combination of features that contribute to the environmental quality, integrity or character of these areas are:

-Watsons Rath on a localised hill, including its setting and views.

-Area of local amenity importance including mature vegetation and attractive vistas.

The plan states the rath is a distinctive feature in the wider landscape of this part of Newry.

- 9.6. The area of the site to the east and north of this LLPA on the west side of Watsons Road has also been zoned for housing development (NY19). This is a committed housing zoning (Proposal NY19 Dorans Hill/ Watsons Road) within the Banbridge, Newry and Mourne Area Plan 2015. According to the Plan, committed sites include approved housing sites developed in full or in part since the commencement of the Plan period and sites with planning permission for housing. The Plan does not stipulate key site requirements for committed sites because future development will be subject to the conditions attached to planning permission. However, in the event that such permissions may lapse, the Department may alter existing conditions or attach new conditions to any subsequent approval to take account of prevailing regional planning policy and the Plan proposals.

PPS 3: Access, Movement and Parking

- 9.7. As mentioned above, in November and December of 2015, TransportNI (TNI) raised no objections to the proposal, supplied relevant planning conditions and endorsed the private streets drawings. TNI confirmed that there are no issues with the internal road layout of the development and that if the upgrade of the junctions of Watson's Road with Glen Hill and Doran's Hill are implemented in accordance with the relevant guidance then there should not be any issues with road safety. It also requires that the development be constructed in 5 phases with the new infrastructure being fully provided by the completion of Phase 3.
- 9.8. While local residents have expressed concerns about the need for the bridge to be upgraded, TNI has not required this in its final responses and has

expressed no objections subject to all works being implemented in accordance with the suggested conditions and all relevant guidance. The Planning Department has also fully considered any objections specific to roads matters and are of the opinion that these do not warrant a refusal of this proposal.

- 9.9.** In the light of the previous consultation response from TransportNI in November 2015, the Planning Department is satisfied that this application complies with the policies contained within PPS 3 in terms of road safety. It therefore also complies with the strategic objectives for transport as outlined in the Strategic Planning Policy statement. The Planning Department is also satisfied that the proposal complies with the key site requirements of housing zoning NY 53 with access being onto Watsons Road, which is to be realigned and widened to agreed standards and a footway provided along the entire frontage of Watsons Road. Appropriate conditions and informatives can also be attached to any approval notice to reflect the requirements of Transport NI, including those referred to in its latest written response dated 14 September 2018 and to ensure compliance with all roads policy matters.

PPS6: Policy BH2 The Protection of Archaeological Remains of Local Importance and their Settings

- 9.10.** This policy states development proposals which would adversely affect archaeological sites or monuments which are of local importance or their settings will only be permitted where the Department considers the importance of the proposed development or other material considerations outweigh the value of the remains in question.
- 9.11.** The application site contains the above and below ground archaeological remains of 2 recorded archaeological sites. One of these is Watsons Fort, a Rath or defended farmstead dating from the Early Christian Period 600-1100 AD. The other is the site of an enclosure which may have functioned as a Rath.
- 9.12.** The applicant submitted an archaeological impact assessment with this application; Historic Environments Division was consulted and raised no objections.

PPS7 Quality in Residential Developments

- 9.13.** Policy QD 1 of PPS 7 states that all proposals for residential development will be expected to conform to all of the following criteria:
- (a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced area;
- (b) features of the archaeological and built heritage, and landscaped features are identified and, where appropriate, protected and integrated on a suitable manner into the overall design and layout of the development;

(c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area.

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

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

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

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

(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;

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

9.14. The principle of a residential development on this site has been accepted by the previous approvals and the zoning of the site for this purpose in successive development plans. The submitted layout of the development acknowledges the protected rath in the centre of the main part of the eastern part of the development. This area will also contain protected badger setts and there will be a tunnel under the main road that will run through the development to enable them to cross the road. The dwellings to the immediate north and south of the rath will be orientated around it, the main road through the development will provide access for a further 3 estate roads, it will be lined with trees. The existing Watson's Road will provide access for 4 estate roads as well as 14 dwellings that will face directly on to it with vehicle access from the rear, another estate road will access off Doran's Hill west of the proposed roundabout, this estate road will join onto one of the estate roads that leads off the main road. The density of the dwellings contained within the proposed development is significantly higher than that of the surrounding developments such as Brannock Heights, Glen Court, Hawthorn Hill and the dwellings along Watsons Road near the southern end of the development.

9.15. A total of 12 different house types are proposed in the application, some of which have been submitted in options to either be finished in red brick or render, House Type F has also been proposed in both gable and hipped roof versions. Located between the new main road and the realigned Watson's Road immediately adjacent to the new roundabout will be a pair of dual frontage dwellings of House Type B; these will have vehicle parking spaces immediately to their rear with the result that the gardens immediately adjacent to the roundabout will be the main areas of private open space and will be

visible from traffic using the roundabout, this will be mitigated by three trees which it is proposed to plant at the apex of the junction. The other dwellings adjacent to these two roads will be arranged gable end on, trees will be planted at the corners of the sites to help screen the rear areas from view. In several places within the development the dwellings are shown as being within linear rows with no variation in the building lines, this is particularly the case of the dwelling built near to the northern end of the existing Watson's Road.

- 9.16.** The amount of private open space proposed for each unit varies markedly across the development, and with house types, those sites located at corners in the development have larger plots due to their orientation, while those arranged in linear rows have more restricted curtilages, the layout was amended following representations from the Planning Authority and the amended plan complies with the provisions of PPS7. Car parking will generally be provided to the sides of the semi-detached dwellings in a one behind the other arrangement; dwellings with this arrangement will also have garages. The Council will always seek to ensure that car parking is provided to the sides of dwellings to minimise the visual impact of hard standing. In this case a small number of terraced dwellings in the development will have parking directly in front of them with trees planted at each end and occasionally with planting in the middle. Together these will both book-end the parking spaces and break up the expanse of parking so as to limit its visual impact within the wider streetscape. Considering the history of the application and the small numbers involved the proposed arrangements are accepted in this case.

PPS8: Policy OS2 Public Open Space in New Residential Development

- 9.17.** The policy states that the Department will only permit proposals for new residential development of 25 or more units, or on sites of one hectare or more, where public open space is provided as an integral part of the development. This policy refers to a normal expectation of at least 10% of the total site area.
- 9.18.** The Planning Department has assessed the amount of proposed open space, an issue raised by objectors. It is satisfied that the scheme incorporates sufficient areas of open space. (This open space excludes the large green areas which will be fenced off to protect badgers.) This equates to 20.5% of the total site area which is well in excess of the 10% required by Policy OS2. The site also benefits from its close proximity to an existing amenity site which incorporates a playing field and tennis court.
- 9.19.** Policy OS2 also states 'For residential development of 100 units or more, or development sites of 5 hectares or more, an equipped children's play area will be required as an integral part of the development. The Department will consider an exception to this requirement where an equipped children's play area exists within reasonable walking distance (generally around 400 metres) of the majority of the units within the development'.
- 9.20** The proposed housing development originally incorporated just one play area. The Department raised concerns that children living in the western section of

the development would have to negotiate a busy road to access this play area. Amended plans were submitted showing an additional play area in the west section of the development to address this concern.

- 9.21.** In the event planning permission is granted it is recommended a condition should be imposed requiring the developer to submit full details of the 2 play areas and to maintain them thereafter. It is standard practice not to stipulate the types and position of the playground equipment so as to afford the developer flexibility into deciding which are considered appropriate.

PPS15: (Revised) Planning and Flood Risk

- 9.22.** Rivers Agency requested the applicant submit a drainage assessment. Following consideration of the submitted drainage assessment, Rivers Agency has no objections to this proposal from a drainage and flood risk perspective.

10.0. Consideration of Other Planning Issues raised by Representations /Objections.

- 10.1.** The site has an extensive planning history; it is zoned for residential development in the current area plan, the section to the west of Watson's Road first having been zoned in the late 1980's. Given this history it is clear that the principle of residential development on the site has been established, subject to the provision of new road infrastructure and measures being implemented to protect the rath, the badger setts and related features.
- 10.2.** The proposed scheme is of a similar size and general layout to those previously approved, the policy context set out under PPS7 has been in place during the processing of most of the historic applications on the site therefore they have been determined to be in compliance with this policy. The current scheme retains the protection around the rath and the setts which were included in previous schemes and therefore it complies with the relevant policies of PPS 2 and 6. The Watson's Fort/ Rath will have an expansive 25 metre protection zone as recommended by NIEA and per the previous planning approval on the site and the existing hedging on the rath is to be retained. It is considered that this high level of protection, combined with the site layout and house types will ensure that the distinctive features of this LLPA, including Watsons Rath on a localised hill and its settings and views as well as its mature vegetation and attractive vistas will all be protected and there would be no adverse or detrimental impact on the LLPA. In relation to the recent comments from third parties that these are outdated, no significant changes have occurred to any of the features referred to since the original submission of the application and therefore the objection is not sustained.
- 10.3.** Several objectors have raised the concentration of the social housing required by the development plan in the part of the site east of Watson's Road, stating that it would be better to have this spread out across the entirety of the site. The social housing requirement was introduced by the current Banbridge, Newry & Mourne Area Plan 2015, which post-dated the original approvals granted on the main part of the site to the west of Watson's Road. The Area Plan specified the provision of a minimum of 12 dwellings on the eastern part

of the housing site (Zoning NY 53, Key Site Requirements). The remainder of the housing site (Zoning NY 19) was identified as a committed site and had no such requirement for social housing in the Area Plan. In view of this it is considered unreasonable to seek to impose a new requirement which was not specified in the current statutory Area Plan or by the PAC. The provision of social housing, to reflect the statutory plan requirements, can be attached to the formal notice.

- 10.4.** In relation to concerns raised about an access being created into the playing fields and this becoming a site for "anti-social behaviour," the submitted scheme shows no such entrance and it could only be accessed by means of trespassing on to land that is entirely within the boundary of a residential unit. While it has been suggested that the owners of this site may not maintain their property correctly this is purely speculative and the playing fields are in any case owned by the Council which can maintain its side of the boundary and prevent any unauthorised accesses.

11.0. Addendum

- 11.1.** This application was presented to the Planning Committee in March 2018 and the Planning Committee agreed with the Planning Department recommendation of approval. However, on 21st June 2018, the Planning Department received an objection from a third party. This objection raised matters such as ownership issues, insufficient planning conditions, policy concerns with regards to PPS 3 and PPS 7, inappropriate wording in the case officer report, a failure to consider the impact of the proposal on the LLPA and the rath, reference to previous consultation concerns raised by TransportNI as well as procedural concerns with regards to the decision making process of TransportNI.
- 11.3.** In response to the ownership concerns, the applicant reduced the application site area boundary in size in order to remove any development within third part land and the proposal description was appropriately amended to reflect this change. These amended plans were re-advertised and neighbours were re-notified and TransportNI was re-consulted. No further objections have been received to date.
- 11.4.** The amended plans received on 24th August 2018 overcome any concerns relating to ownership and the reduction in the site boundary does not present any planning policy concerns for the Planning Department. The Planning Department considers the proposal has been fully assessed against all the policies and that appropriate conditions can be attached to the formal approval notice, if required. Issues raised such as PPS 3 and PPS 7 have been fully assessed as well as PPS 6 with regards to the LLPA and rath (See page 11 of this report) and the proposal complies with all policy requirements. Any inappropriate wording has now been addressed in the case officer report. The objection also makes reference to the previous concerns raised by TransportNI in its earlier consultation responses. These concerns were subsequently addressed by Transport NI in its further response and it subsequently approved the layout on 13th November 2015, subject to

conditions and informatives. The procedural concerns, referred to by the objector, relating to the decision making process of TransportNI are not a matter for the Planning Department to consider as part of its assessment of this application. In summary, this latest objection has been considered, any issues have been addressed and considered and the objection does not warrant a change of opinion.

12.0. Recommendation

- 12.1.** Following assessment of all the material considerations including: the previous history and area plan context; all relevant planning policies; and the content of the objections and consultations, it is considered that the proposal complies with all relevant polices and approval is recommended, subject to the conditions and informatives below.

Case Officer

Authorised Officer

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 activity shall commence until a Wildlife Management Plan (WMP) has been submitted to, and agreed in writing by, the Planning Authority. The WMP shall be updated prior to each subsequent phase of the development and no development activity shall commence on each subsequent phase until an updated WMP is submitted to the Planning Authority and agreed in writing. All works on site shall conform to the WMP and any amendments to the WMP must be agreed in writing with the Planning Department. The WMP shall include (but not be limited to) the following:
 - a) Aims and objectives of the WMP.
 - b) The role and responsibilities of the Ecological Clerk of Works.
 - c) Results of updated badger surveys to inform the WMP for the imminent phase of the development, including details of available setts within and adjacent to the site and any changes in sett distribution or activity since the previous survey.
 - d) Details of all badger management, mitigation and protection measures carried out during the preceding phase of the development and the results of the monitoring of the effectiveness of such measures.
 - e) Setts proposed for permanent closure during the imminent phase.
 - f) Setts proposed for temporary closure during the imminent phase.
 - g) Timing and scheduling of all sett closures.
 - h) Details of the setts which will be available to badgers within and adjacent to the site during and after the imminent phase of the development.
 - i) Details of all badger management, mitigation and protection measures to be implemented during the imminent phase of the development, including fencing and planting schedule for badger protection areas.
 - j) Proposed monitoring of badger management, mitigation and protection measures and scheduling of further surveys to inform the next update of the WMP.
 - k) Details of any tree or hedgerow removal proposed for the imminent phase

of the development.

l) Any mitigation measures proposed for the imminent phase of the development for other protected species such as bats and breeding birds.

m) Any emerging issues and proposals for the next plan update.

Reason: To protect badgers and other wildlife on the site.

3. The development shall be phased as shown on Drawing No. 94 (Rev 1), date stamped 24 August 2018 by the Area Planning Office. All construction activity shall be restricted to one phase of the development at a time. There shall be no works, vegetation clearance, disturbance by machinery, dumping or storage of materials within any subsequent phase of the development except as stipulated in the Wildlife Management Plan.

Reason: To allow badgers and other wildlife to adapt to the development over time.

4. No development activity shall commence until a person recognised by the Planning Department as a suitably qualified and experienced person has been appointed as an Ecological Clerk of Works (ECoW) and the role and responsibilities of the ECoW agreed in writing with the Planning Authority. The ECoW shall be responsible for the production of the WMP and shall supervise all construction activities at regular intervals.

Reason: To protect badgers and other wildlife on the site.

5. There shall be no development activity, vegetation clearance, disturbance by machinery, dumping or storage of materials (except for the hand planting of trees and shrubs) within the badger protection areas or wildlife corridors without the consent of the Planning Authority.

Reason: To protect badgers and other wildlife on the site.

6. No works, including any archaeological excavations, shall take place within 25 metres of a badger sett without the presence of an NIEA Protected Species Licence holder.

Reason: To protect badgers and their setts.

7. No development activity shall commence until a Lighting Plan has been submitted to, and agreed in writing by, the Planning Authority. The Lighting Plan shall include details of all external lighting on the site and measures to mitigate for impacts of artificial lighting on bats and other wildlife. In particular the Lighting Plan shall include:

a) Specifications of lighting to be used across the site.

- b) Lighting levels to be as low as possible across the site.
- c) A map showing predicted light spillage across the site (isolux drawing).
- d) Badger protection areas, wildlife corridors and retained hedgerows to be kept free from any artificial lighting.

Reason: To protect bats and other wildlife.

8. There shall be no tree, scrub or hedgerow removal during the bird breeding season (1 March to 31 August inclusive).

Reason: To protect breeding birds.

9. Prior to the commencement of the development hereby approved, the developer shall submit a plan to the Planning Authority identifying a minimum of 12 units within Housing Zoning 53, to the east of Watsons Road within the development hereby approved which will be provided for social rented housing. These units shall be managed and maintained by a Housing Association which is registered and regulated by the Department for Communities as a social housing provider and shall consist of at least:
 - 60% should be 2 bed, 4 person houses, and
 - 40% should be 3 bed, 5 person houses.

Reason: To meet an identified social housing need in the area and to comply with the requirements of the Area Plan.

10. All areas of public open space and communal landscaping as shown on the approve drawings shall be maintained in accordance with a Landscape Management and Maintenance Plan to be submitted to and agreed in writing with the Planning Authority prior to the occupation of any of the dwellings hereby approved. The Plan shall cover a minimum period of 25 years. Should the Management Company dissolve at any stage, then a new Management Company shall be appointed and an new Management and Maintenance Plan shall be submitted to and agreed in writing with the Planning Authority.

Reason: To ensure the successful establishment and long term maintenance of public open space and landscaping in the interests of visual and residential amenity.

11. Prior to any dwelling hereby approved becoming occupied, the developer shall submit to and agree with the Planning Authority, details of the two play areas as indicated on stamped approved drawing No. 17 (Rev 3) date received on August 24th 2018 as well as an appropriate timetable for their completion. These play areas shall be maintained for a period of 30 years from the date of this decision at the developer's expense.

Reason: To ensure that the play area is provided in accordance with all

relevant standards.

- 12.** No development shall commence until the developer has obtained from Transport NI and all relevant landowners, agreement for works relating to the connection of footpaths and roads approved by this decision with similar structures, either existing or proposed, in the surrounding area.

Reason: To ensure that a satisfactory network of footpaths and roads, including any boundary walls and vehicle restraint systems, are provided to service the development.

- 13.** No more than those dwellings indicated within Phase 1 of the development hereby permitted, as indicated on stamped approved drawing, shall be occupied prior to the completion of all road works associated with Phase 1 on Doran's Hill, Watsons Road and internal housing roads.

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the site are carried out prior to the completion of this part of the development.

- 14.** No more than those dwellings indicated within Phase 2 of the development hereby permitted, as indicated on stamped approved drawing, shall be occupied prior to the completion of all road works associated with Phase 2 on the new distributor road, Glen Hill, Watsons Road and internal housing roads.

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the site are carried out prior to the completion of this part of the development.

- 15.** No more than those dwellings indicated within Phase 1, 2 and 3 of the development hereby permitted, as indicated on stamped approved drawings, shall be occupied prior to the completion of all road works associated with Phase 3 on the new distributor road, Watsons Road and internal housing roads.

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the site are carried out prior to the completion of this part of the development.

- 16.** Prior to the commencement of any works of the development hereby permitted the proposed roundabout and any associated works will require to be designed in accordance with the relevant section of the Design Manual for Road and Bridges and will be subject to separate agreement by Transport NI.

Reason: In the interests of Road Safety and Traffic Progression.

- 17.** Prior to the commencement of any works hereby permitted, the developer will be required to comply with the legislative process to stop-up and abandon

relevant parts identified by Transport NI of the existing Watsons Road. These works will require the developer to contact Transport NI Lands Branch to provide the necessary plans for this procedure to commence. The developer will also be liable for any costs associated with the processing of this Order and no works hereby permitted will be commenced until this process has been fully completed to the satisfaction of Transport NI.

Reason: In the interests of Road Safety and Traffic Progression.

18. The developer will be required to ensure that the road works associated with this proposal have been subject to the Safety Audit process in accordance with the relevant Department guidelines.

Reason: In the interest of road safety and traffic progression.

19. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Department hereby determines that the width, position and arrangement of the streets and the land to be regarded as being comprised in all the streets, shall be as indicated on Drawings Nos 12-117/C13, 12-117/C13, 12-117/C14, 12-117/C15, 12-117/C16 bearing the date stamp November 10th 2015.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

20. Notwithstanding the provisions of the Planning (General Development) Order (NI) 1992, no garages shall be sited closer than 5.6 metres from the back of the footway or service strip.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

21. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

No other development hereby permitted shall be occupied until the works necessary for the improvement to the public road have been completed in accordance with the details outlined blue on Drawing Number 12-117/C13, bearing the date stamp November 10th 2015. The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure that the road works considered necessary to provide a

proper, safe and convenient means of access to the development are carried out.

- 22.** The visibility splays as indicated at the junctions of the proposed accesses with the public road, shall be provided in accordance with Drawings Nos 12-117/C13, 12-117/C14, 12-117/C15, 12-117/C16 bearing the date stamp November 2015, prior to the commencement of any other works of this development.

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

- 23.** No dwellings shall be occupied until that part of the service road which provides access to it has been completed to base course; the final wearing course shall be applied on the completion of each phase of the development.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling.

- 24.** No dwellings shall be occupied until provisions has been made and permanently retained within the curtilage of each dwelling for the parking of private cars at the rate of 2 spaces per dwelling or otherwise specified.

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

- 25.** The development hereby permitted shall not be occupied until any highway structure/retaining wall/ vehicle restraint system requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

- 26.** Any telegraph poles/street furniture will require to be re-sited to the rear of sight visibility splays.

Reason: In the interests of road safety and traffic progression.

- 27.** The gradient of any side slopes proposed will be a maximum of 1metre in 2 metres.

Reason: In the interests of road safety and traffic progression.

- 28.** The development hereby permitted shall not be commenced until a street lighting scheme design has been submitted to and approved by the Department for Infrastructure's Street Lighting Section.

Reason: Road safety and convenience of traffic and pedestrians.

- 29.** The Street Lighting scheme, including the provision of all plant and materials and installation of same, will be implemented as directed by the Department for Infrastructure's Street Lighting Section.

Reason: To ensure the provision of a satisfactory street lighting system for road safety and convenience of traffic and pedestrians.

- 30.** All appropriate road markings and associated signage within the development and on the public road shall be provided by the developer in accordance with the Department's specification (Design Manual for Roads and Bridges) and as directed by Transport NI Traffic Management Section prior to the development becoming occupied by residents.

Reason: In the interests of road safety and traffic progression.

- 31.** The gradient of a private access shall not exceed 8% for the first 5 metres outside the public road boundary and a maximum gradient of 10% thereafter.

Reason: In the interests of road safety

- 32.** Prior to the commencement of any road works, the developer shall provide a detailed programme of works and associated traffic management proposals to Transport NI for agreement in writing.

Reason: To facilitate the free movement of road users and the orderly progress of work in the interests of road safety.

- 33.** The developer shall contact Transport NI Traffic Management prior to the commencement of works on the site to agree suitable positions for any existing road signage and traffic calming measures that will require being relocated as a result of this proposal.

Reason: In the interests of road safety and traffic progression.

- 34.** All areas of open space and landscaping shall be completed in accordance with the stamped approved plans prior to the occupation of any of the dwellings hereby approved.

Reason: To ensure the areas of open space/ landscaping are brought to an appropriate standard.

- 35.** All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised codes of practice. The works shall be carried out prior to the occupation of any part of the development.

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

standard of landscape.

- 36.** 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 local planning authority, 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 local planning authority gives its written consent to any variation.

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

- 37.** If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the chalets another tree or trees shall be planted at the same place and those trees shall be of such size and species and shall be planted at such time as may be specified by the Newry, Mourne and Down District Council.

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

- 38.** No development shall take place until the full details of any retaining walls proposed within the site have been submitted to and approved in writing by the Planning Authority. The retaining walls shall be shall be constructed prior to the occupation of any part of the development hereby approved.

Reason: In the interests of safety and visual amenity.

- 39.** The development hereby approved shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development, in accordance with details to be submitted to and approved in writing by the Planning Authority.

Reason: In the interests of Public Health.

- 40.** The development hereby approved relates only to land contained within the site area boundary as identified in Drawing No. 01 (Rev 2). Any development outside of the identified boundary in Drawing 01 (Rev 2) shall require separate consent from the Planning Authority.

Reason: To ensure the orderly control of development.

- 41.** Prior to the occupation of any part of the development hereby approved, a footway shall be provided along the entire site frontage onto Watsons Road.

Reason: In the interests of safety and to ensure compliance with the Area Plan.

- 42.** The development hereby approved shall not be occupied until drainage works

have been carried out in accordance with details to be submitted to and approved in writing by the Planning Authority.

Reason: To safeguard the site and adjacent land against flooding and standing water.

Informatives

1. Private Streets Order (Northern Ireland) 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department to make the roads (including road drainage) in accordance with the Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

2. Separate approval must be received from Transport NI in respect of detailed standards required for the construction of streets in accordance with the Private Streets Construction Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.
3. In order to ensure that the laying of ducts and the erection of columns for street lighting is co-ordinated with the construction of the streets, the applicant should contact Transport NI Street Lighting Section at Carn Depot, Portadown before any construction work commences.
4. Under the terms of the Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2015, design for any Street Lighting schemes will require approval from Transport NI, Street Lighting Consultancy, Carn Depot Portadown. The Applicant is advised to contact Transport NI Street Lighting Section at an early stage. The applicant/developer is also responsible for the cost of supervision of all street works determined under the Private Streets (Northern Ireland) Order 1980.
5. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.
6. The service strips coloured green with black hatching on the approved plan have been determined as lands to be adopted by the DRD. It is, therefore, essential that vendors inform house purchasers of their limited rights within

such strips. It is strongly recommended that the developer does not sell or lease the land from the service strips as parts of housing plots. If land for service strip is to be sold or leased to house purchasers the vendor must insert in the deeds the following clause or covenant:-

""The purchaser hereby covenants with the vendor that he/she, the purchaser, and his successors in title will not at any time hereafter erect or construct any building wall or fence or plant any tree or shrub on the strip of land shown cross hatched on the plan annexed hereto, nor do or suffer to be done therein or thereon any act, matter or thing whereby the cover of soil over or the support of the pipes, wires and/or cables laid in the said strip of land shall be altered or which may render access thereto more difficult or expensive and shall understand that the road authority and statutory undertakers have unencumbered right of access to the said strip of land."

7. It is a Transport NI requirement that all structures which fall within the scope of the current version of DB2 Technical approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges shall require Technical Approval. Details shall be submitted for the Technical Approval Authority through the relevant division.
8. Geotechnical activities which require Geotechnical Certification shall be submitted to Engineering Policy and Parking Services through the relevant division. Geotechnical Certification shall be in accordance with the Department of Infrastructure's Geotechnical Certification procedures as laid down in the current version of HD22 Managing Geotechnical Risk: Volume 4: Design Manual for Roads and Bridges.
9. Rivers Agency will require to be consulted regarding the discharge of any storm water into an existing water course prior to commencement of building works on site.
10. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.
11. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
12. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any

watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

13. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.
14. The Rivers Agency has no record of flooding occurring at the site. However, visual inspection indicates that it may be subject to marginal flooding originating from the watercourse(s) which traverse/bound the site, and developers would be advised to obtain advice from competent, suitably qualified persons to assist them in determining appropriate site and finished floor levels.
15. Where an undesignated watercourse flows through or adjacent to a development site, it is strongly advised that a working strip of appropriate width is retained to, in future, enable riparian landowners to fulfil their statutory obligations/responsibilities.
16. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

Any works within 25 metres of a badger sett will require a wildlife licence to be obtained from NIEA. Licence applications should be made to the Wildlife Inspector, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605

17. The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately capture, injure or kill a wild animal of a European protected species included in Schedule II of these Regulations, which

includes all species of bat. It is also an offence;

- (a) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- (b) Deliberately to disturb such an animal in such a way as to be likely to:
 - (i) Affect the local distribution or abundance of the species to which it belongs;
 - (ii) Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - (iii) Impair its ability to hibernate or migrate;
- (c) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- (d) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity / roosts on the site, all works must cease immediately and further advice must be sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605

- 18.** The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately capture, injure or kill a wild animal of a European protected species included in Schedule II of these Regulations, which includes the otter (*Lutra lutra*). It is also an offence;

- (a) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- (b) Deliberately to disturb such an animal in such a way as to be likely to:
 - (i) affect the local distribution or abundance of the species to which it belongs;
 - (ii) Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - (iii) Impair its ability to hibernate or migrate;
- (c) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- (d) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of otter activity on the site, all works must cease immediately and further advice must be sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605

19. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the smooth or common newt (*Lissotriton vulgaris*, formerly *Triturus vulgaris*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any structure or place which newts use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a newt while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of newts on the site, all works must cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605

20. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild bird. It is also an offence to intentionally or recklessly: take, damage or destroy the nest of any wild bird while that nest is in use or being built; or take or destroy an egg of any wild bird. If any person intentionally or recklessly disturbs any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturbs dependent young of such a bird they shall be guilty of an offence.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that tree and hedge loss should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31st August.

21. The Council considers that Leyland and Lawson Cypress (including the variety Castlewella Gold), are inappropriate in housing plants because their use can cause nuisance to adjoining residents by reason of shade, blocked views and soil damage due to their rapid vertical and horizontal growth and the invasive root system of these trees.
22. This permission authorises only private domestic use of the proposed garages and does not confer approval on the carrying out of trade or business there from.
23. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

Re. Request for Speaking Rights

Dear Sir/Madam,

We are advised that the Planning Application for no. 200+ houses at Doran's Hill in Newry P/2013/0242/F will be submitted for the September Planning Committee meeting in Monaghan Row. Can I please request speaking rights on behalf of the applicant Mr Brian McConville. This is to advise what has happened since the application was last submitted (and recommended for approval) by the committee.

Thanks

Kind Regards

Deborah Loughran

Deborah Loughran LLB MCIPR

Group Head of Marketing and Communications

MJM Group

Carnbane Business Park

Newry, Northern Ireland

BT35 6QH



Planning Application - P/2013/0242/F

Dear Sirs,

Re: Planning Application - P/2013/0242/F

Planning Committee Schedule of 26th September 2018

We write on behalf of our client to request that the planning application be removed from the agenda forthwith due to procedural unfairness and a fundamentally flawed approach in law of the planning department in its reconsideration.

Procedural Unfairness

We note the recommendation to approve was scheduled by way of a revision to the published schedule of applications to go before the Planning Committee issued on 14th September 2018.

We have also been provided with a copy of the case officer's report issued on 14th September 2018.

However, what is deeply concerning to our client is the fact that it received a letter from the Council on 31st August 2018 stating that it was to lodge its objection by 14th September 2018. However, what is now apparent is that the planning department have concluded its further consideration of the planning application prior to the expiry of that period and in so doing, pre-determined its recommendation to the planning committee. The approach taken by the planning department ignores the advertisement and notification process it had set in motion. The recipients of the formal correspondence had a legitimate expectation that the Planning Department would consider their objections rather than simply pre-determine its recommendation before the expiry of the period to respond as invited by the same Planning Department.

Further, on review of the case officer's report, it is apparent that the report does not present the true reason as to why the planning application is being brought back before the Planning Committee. The Planning Department was in fact in receipt of correspondence from this office, on behalf of our client, outlining its concerns with the previous resolution to grant planning permission back in March 2018. It is this correspondence that brought a halt to the previous unlawful attempts to approve this flawed planning application. The case officer's report fails to acknowledge or outline to the Planning Committee this true reason. The subsequent submission of our client's consultant is consistent with this office's submission from March and the request of the Planning Department in May 2018. Plainly, this factual matrix is material to any Planning Committee given the application is being returned following the previous resolution to approve which in itself is highly unusual.

Misdirection of the Planning Committee

To compound matters, the case officer's report contains mistakes as to fact which fundamentally misdirect the Planning Committee as to the true position regarding the planning application. For example, the case officer's report states at paragraph 9.9:

"In the light of the previous consultation response from TransportNI in November 2015, the Planning Department is satisfied that this application complies with the policies contained within PPS 3 in terms of road safety. It therefore also complies with the strategic objectives

for transport as outlined in the Strategic Planning Policy statement. The Planning Department is also satisfied that the proposal complies with the key site requirements of housing zoning NY 53 with access being onto Watsons Road, which is to be realigned and widened to agreed standards and a footway provided along the entire frontage of Watsons Road. Appropriate conditions and informatives can also be attached to any approval notice to reflect the requirements of Transport NI, including those referred to in its latest written response dated 14 September 2018 and to ensure compliance with all roads policy matters." (emphasis added)

The Planning Department simply cannot rely upon an outdated consultation response which is nearly 3 years old and post-dated by more up to date consultation responses. The response of DFI Roads dated 14th September 2018 (attached) objects to the amendments as tendered and suggests an office meeting. It also notes that the Council should not approve the application without resolving such matters, i.e. they cannot be dealt with by condition. It outlines the issues it has with the amended proposal. This is not the first time the Planning Department has misdirected the Planning Committee as to the true position of DFI Roads in this planning application.

To illustrate the continued misdirection of the Planning Committee on matters of roads policy, subsequent consultation responses of 5th October 2016 and 19th December 2016 state, inter alia:

"In order for a detailed assessment of this proposal to be considered a number of details will require to be amended with regards drainage, road sections and general layout. In order to discuss these issues in greater detail an office meeting with the agent would be the best way forward."

and

"Transport NI has no objection in principle to the proposed extension of the determined area associated with the above plan. However in order for this plan to be endorsed by the Department a number of minor amendments will require to be completed as indicated in our previous reply dated 5 October 2016. The above comments are on the basis that the proposed extension is within the red line of the application."

These responses are far removed from the position of November 2015 which is erroneously relied upon in a context where, inter alia, the planning application boundary and proposal details have changed on more than once occasion since.

Of course the referred to requirement to amend the redline boundary to include the necessary road infrastructure works (on our client's land) has now been reduced to the original boundary which DFI Roads objected to.

However, the case officer's report unlawfully concludes at paragraph 11.3:

"In response to ownership concerns, the applicant reduced the application site area boundary in size in order to remove any development within third part[y] land and the proposal description was appropriately amended to reflect this change. These amended plans were re-advertised and neighbours were re-notified and TransportNI re-consulted. No further objections have been received to date."

Such an approach by the Planning Department is unlawful. What in essence the Planning Department has permitted is the belated removal of required third party land (the same area the planning application boundary was previously extended into) from a planning application

site, which is required to deliver the necessary road infrastructure works simply because the planning applicant does not own the land. Such an approach is unlawful.

Failure to provide consultation response of DFI Roads

Following our correspondence of March 2018 and open file appointment provided for in May 2018, we emailed Mr McKay seeking the DFI Roads response to the application offering no objection and proposing the conditions as contained in the case officer's report from early 2018. The case officer Mr Davidson emailed this office (13th June 2018) to say he would provide the consultation response by the following day at the latest. While our further objection was lodged by our consultant, we have not received to this day the consultation response and judging by the case officer's report, reliance upon the consultation response of November 2015, we can only assume contrary to Mr Davidson's email of 13th June 2018 no such consultation response in fact exists. That further undermines the utility of the now relied upon consultation response of November 15. It begs the question, where did the roads conditions as proposed come from as they plainly are not particularised in the consultation response of November 2015?

Conditions

The conditions as proposed are unenforceable and in some cases unlawful.

Conclusion

For all of the above reasons, the planning application should be removed from the planning schedule forthwith. For the Planning Department and Planning Committee to continue to determine the planning application in its current form will inevitably expose the Council to the prospect of judicial review.

If the application is still placed before the planning committee this correspondence should be brought to its attention and we would request speaking rights on our behalf, our clients behalf and consultants. If the Council requires individual names please let us know.

Yours faithfully

Carson McDowell LLP

transportniSouthern Division
Rathkeltair House
Market Street
DOWNPATRICK
BT30 6AJ

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Planning Application Reference Number: P/2013/0242/F
Date Plans/Documents received by Planning: 24 August 2018
Date Plans/Documents received by DFI Roads: 28 August 2018
Drawing/Document Reference: PSD, Red line and site layout

DFI Roads are not satisfied with the amended red line.

The red line needs to be amended to include all proposed works to be carried out under this proposal. This should include up to the edge of the old road boundary.

The PSD drawings 12/117/c15 and 12/118/c16 which have been submitted have a number of inconsistencies and accuracies which will need to be resolved in terms of the verge and footways to be determined and access locations

It is indicated on the PSD drawing that house no 18 on Watsons Road has direct access onto the new distributor road with bollards provided. This would be unacceptable as no direct access onto the distributor road will be permitted. On drawing number 17(Rev3) a wall is to be constructed to the front of house 18 on the old Watsons road to prevent direct access onto the new distributor Road.

DFI Roads consider an office meeting may be the best way forward.

Drawing no 17 Rev3 is also missing Vehicle restraint system between plot 84 and 85 which would need to be amended.

NOTE TO PLANNING

An Application where the Department is to adopt Road/Footway should have approved PSD's prior to Planning approval.

Senior DFI Officer: WNR Laughlin
14 September 2018

TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		PLANNING MEETING – 09 MAY 2018			
LA07/2017/1326/F	Peter Morgan – dwelling and garage on a farm – 30m south of 28 Bog Road, Kilcoo	Agreed at August 2018 meeting to defer planning application for further discussion between agent/applicant and Senior Planning Officers on new information submitted	Annette McAlarney	Application considered at August 2018 meeting – agreed to defer application for further discussion between agent/applicant and Senior Planning Officers on new information submitted	N
P/2014/0427/0	Joseph McGivern – site for dwelling to the rear and south of 2 Berkley Grove, Warrenpoint	Remove from the agenda to allow for further discussion with Planning Officers	Jacqui McParland	Agent has submitted additional information to address roads issues. 13th June 2018. Reconsult TNI.	N
LA07/2017/1624/0	Thomas Stevenson – replacement dwelling -50m NW of 18 Turlough's Hill, Annalong	Defer Planning Application LA07/2017/1624/O to allow time for the agent to provide more documentary evidence	Jacqui McParland	Agent has submitted a H&S Report. No additional case	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		regarding issues raised by Committee Members including the need for a health and safety report on access through the farmyard and also the case of need for the applicant to be living close to the farm.		for need submitted. Dept has requested this again – 11 th June 2018.	
LA07/2017/1186/F	Wolfhill Developments Ltd – change of use and conversion of part of former school building – 4 Lurgancanty Road, Clontifleece, Warrenpoint	Defer Planning Application LA07/2017/1186/F to allow for a meeting to take place between the Applicant and Planning Officers to discuss revised design issues. Agreed to delegate the issue of the final decision on the application to Planning Officers.	Jacqui McParland	Meeting held with applicant and agent. Resubmission received on the 6th June 2018. Awaiting assessment.	N
LA07/2017/1721/F	Millvale Services Ltd – proposed parking for neighbouring Millvale Service Station – Millvale Road, Bessbrook	Defer Planning Application LA07/2017/1721/F to allow for a Health and Safety Report / Road Traffic Report to be conducted as soon as possible and report back to Committee for further consideration of the application.	Pat Rooney	21 day letter issued to agent requesting the said information. Expiry date for info is 9.7.18. Application deferred at meeting on 29	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				August 2018 until issues raised by SPO have been considered and Planning Officers are to liaise with the agent/applicant at the earliest possible opportunity	
		PLANNING MEETING – 6 JUNE 2018			
LA07/2016/1632/0	Jason Fegan - proposed farm dwelling - lands 45m NW of No. 12 Upper Knockbarragh Road, Warrenpoint.	Defer for a site visit		Site visit held - 5 September 2018 – application is back on schedule for meeting on 26-09-2018	N
LA07/2017/1030/0	Michael Tinnelly - site for 100 bedroom hotel and spa - 200m east of No. 25 Greenpark Road, Rostrevor.	Defer application so that the agent/applicant/Planning Consultant can meet with the SPTO to identify what outstanding information has to be submitted to allow Planners and HED to make an informed assessment and opinion on the application. As it is a major application it be brought back to the	Jacqui McParland	Held meeting on the 14th June with agent. Discussed what was required. Allowing 28 days for submission. Aim to get it back to	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		Committee in due course		committee in September 18.	
LA07/2018/0398/0	Shea McAnulty - proposed infill gap site for a new dwelling and detached garage - lands between No. 5 and 5a Cons Lane, Newry	Application removed from the schedule for further consideration by Planners	Andrew Davidson	Application deferred at Pl. Meeting on 29-08-2018 to allow for further discussions between applicant/agent and planning officers re: potential for other in-fill or agricultural opportunities	N
PLANNING MEETING – 4 JULY 2018					
LA07/2017/1797/F	Ann Herron – conversion of windmill stump to dwelling to include single storey rear extension and associated site works – land 20m south and adjacent to 25 Saintfield Road, Crossgar	Defer application for further discussions with agent/applicant and planning officers with a view to the agent submitting a more satisfactory design – if the opinion remains a refusal the application to be brought back to the September Committee Meeting for determination	Annette McAlarney	Amended plans received and acceptable. Will issue as approval	Y
LA07/2018/0394/F	NIHE (South Region) – proposed single storey front, side and rear extension – 1 Seaview,	Defer application for further discussion between agent and planning officers in relation to green space and design issues – if the	Annette McAlarney	Revisions received. To be considered.	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	Ardglass	opinion remains a refusal the application to be brought back to Committee for determination			
		PLANNING MEETING – 1 AUGUST 2018			
LA07/2017/1261/0	Thomas Mageean – proposed dwelling and garage – site abutting 20 Junction Road, Saintfield	Defer application to enable the Council's Legal Advisor to consider issues raised regarding ownership of the application site (Mr Thomas Mageean); the farm business in the name of Mr Bernard Mageean, who takes land in conacre from his brother and this farm business being altered by adding the applicant as an additional member of the business and in so doing have the applicants buildings at No. 20 Junction Road included within the farm business criterion © of CTY10	Annette McAlarney	Await legal advice	N
LA07/2017/1494/0	John Murnion –proposed one and a half storey dwelling and detached domestic garage – opposite and north of No. 43 Bryansford Road, Stang, Hilltown	Defer application for further discussion between agent/applicant and planning officers in relation to concerns expressed that land at 72 Kilkeel Road, Hilltown, which is the main farm holding, can only be accessed by an existing laneway of which the applicant only has right of way and could not therefore provide sight lines which may be required. Clarification to be sought on this to	Annette McAlarney	Agent has submitted supporting info which has to be considered.	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		determine if a site could be achieved at this address and also discussions on the proposed off-site location.			
		PLANNING MEETING – 29 AUGUST 2018			
LA07/2017/0821/0	Mr C Kane - Proposed off site replacement dwelling and garage - 123 Magherahamlet Road, Moneywabane, Ballynahinch.	Defer application for further discussion between agent/applicant and planning officers re: new information submitted and issues raised at the Planning Committee Meeting	Annette McAlarney		N
LA07/2018/1704/0	Ms Claire Ferris – Proposed 2 no. dwellings on in-fill site under Policy CTY8 – Between 16 & 20 Lough Road, Crossgar	Defer for a site visit	Annette McAlarney		N
LA07/2017/0603/0	Christopher Smith - Proposed 2 storey dwelling - Site adjacent to No. 1 John Mitchel Street, Newry.	Defer for a site visit	Jacqui McParland		N

Newry, Mourne & Down District Council – August 2018

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1. Live Applications

MONTH 2017/18	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April	129	914	222
May	141	916	217
June	141	909	225
July	150	960	231
August	114	913	244

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	510	182	79	33	110	914
May	506	193	78	33	106	916
June	483	201	84	33	108	909
July	540	189	90	34	107	960
August	482	187	99	34	111	913

3. Live applications per Case Officer

Month 2017/18	Average number of Applications per Case Officer
April	51
May	49
June	48
July	51
August	48

Newry, Mourne & Down District Council – August 2018

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4. Decisions issued per month

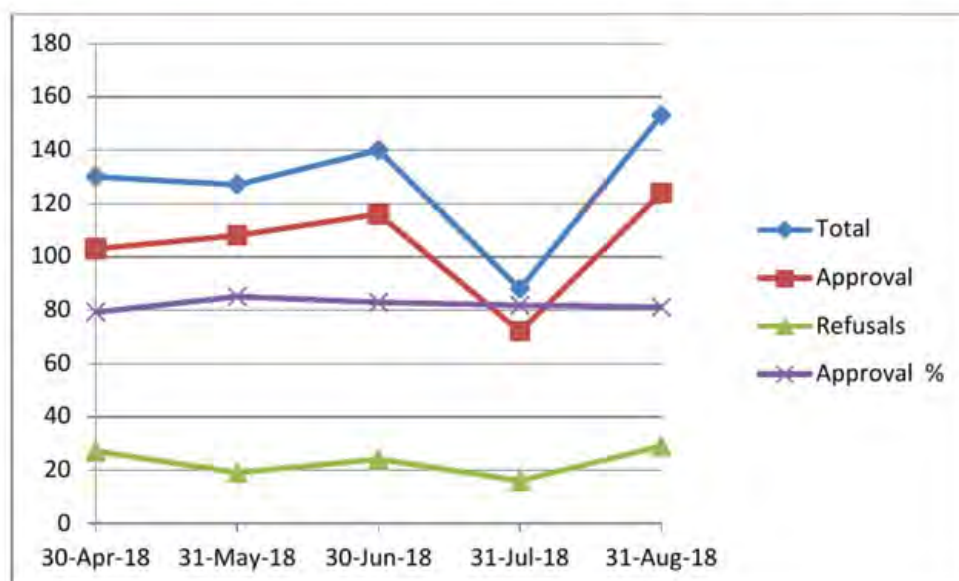
Month 2017/18	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	130	111
May	127	119
June	140	130
July	88	78
August	153	141

5. Decisions Issued YTD

Month 2017/18	Number of Decisions Issued	Breakdown of Decisions	
		Approvals	Refusals
April	130	Approvals (103)	79%
		Refusals (27)	21%
May	257	Approvals (211)	82%
		Refusals (46)	18%
June	397	Approvals (327)	82%
		Refusals (70)	18%
July	485	Approvals (399)	82%
		Refusals (86)	18%
August	638	Approvals (523)	82%
		Refusals (115)	18%

Newry, Mourne & Down District Council – August 2018

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**6. Enforcement Live cases**

Month 2017/18	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+ yrs	Total
April	305	220	101	77	84	124	911
May	325	208	105	81	84	125	928
June	331	224	106	82	82	130	955
July	332	226	113	82	82	135	970
August	365	246	110	85	73	150	1,029

7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting
11 April 2018	25	20	5
9 May 2018	17	10	7
6 June 2018	13	5	8*
4 July 2018	14	6	8
1 August 2018	12	8	4
29 August 2018	13	4	9
Totals	94	53	41

* 1 application withdrawn by Applicant

Newry, Mourne & Down District Council – August 2018

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8. Appeals

Planning Appeal Commission Decisions issued during July 2018

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Other decisions
Newry & Mourne	12	5	5	0	0
Down	7	0	0	0	0
TOTAL	19	5	5	0	0

Newry, Mourne & Down District Council – August 2018

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Statutory targets monthly update - up to July 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	2	110.4	0.0%	100	109	14.0	52.3%	49	6	170.2	66.7%
May	0	2	67.3	0.0%	116	118	16.9	43.2%	50	14	48.3	64.3%
June	1	1	20.2	100.0%	135	132	15.1	50.0%	49	25	49.2	60.0%
July	0	-	0.0	0.0%	107	81	15.2	49.4%	39	7	52.8	71.4%
August	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
September	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
October	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
November	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
December	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
Year to date	1	5	48.6	20.0%	458	440	15.4	48.6%	187	52	48.0	63.5%

Source: NI Planning Portal

Notes:

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".

Newry, Mourne & Down District Council – August 2018

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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 2018-2019

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DATE OF MEETING	PLANNING OFFICER'S NAME/S	PUBLIC REPRESENTATIVE'S NAME
23/04/2018	A McAlarney	Cllr W Walker Cllr T Andrews
27/04/2018	A McAlarney	Cllr R Burgess
30/04/2018	A McAlarney	Cllr W Walker
30/04/2018	A McAlarney	Cllr Fitzpatrick
10/05/2018	A McAlarney	Colin McGrath MLA
31/05/2018	A McAlarney	Cllr Rice
04/06/2018	A McAlarney	Cllr McMurray
29/06/2018	G Kerr	Cllr B Quinn
10/07/2018	G Kerr / P Smyth	Cllr B Quinn
17/07/2018	A McAlarney	Colin McGrath MLA
09/08/2018	G Kerr / P Smyth	Cllr B Quinn
14/08/2018	A McAlarney	Cllr W Walker

Current Appeals

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AUTHORITY Newry, Mourne and Down

ITEM NO 1
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 4PF
 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

ITEM NO 2
Planning Ref: LA07/2017/0786/ **PAC Ref:** 2017/A0178
APPELLANT Walter Watson **DEA** Slieve Croob
LOCATION 4 Drumnaquoile Road
 Castlewellan
PROPOSAL Replacement dwelling and detached garage

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Date Appeal Lodged** 04/12/2017
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	3		
Planning Ref:	LA07/2017/0319/	PAC Ref:	2017/A0188
APPELLANT	Mr Sean O'Hare	DEA	Slieve Gullion
LOCATION	10A Limekiln Road Newry		
PROPOSAL	RT35.71 X 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			

ITEM NO	4		
Planning Ref:	LA07/2017/0114/	PAC Ref:	2017/A0202
APPELLANT	Mr Vincent McGuinness	DEA	Newry
LOCATION	210m South 30 Low Road Killeavy Newry		
PROPOSAL	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

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ITEM NO	5	PAC Ref:	2017/A0213
Planning Ref:	LA07/2016/0952/	DEA	Newry
APPELLANT	D & M Downey		
LOCATION	113-117 Dublin Road Newry		
PROPOSAL	RT35 ROP 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			

ITEM NO	6	PAC Ref:	2018/A0020
Planning Ref:	LA07/2017/0795/	DEA	Rowallane
APPELLANT	Mr Laurence Patterson		
LOCATION	Drumnaconnell House 56 Ballynahinch Road Drumnaconnell West		
PROPOSAL	Replacement dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	15/05/2018
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	7	PAC Ref:	2018/A0026
Planning Ref:	LA07/2015/0461/	DEA	Crotlieve
APPELLANT LOCATION	John Mackin 72 Ballyvalley Road Mayobridge		
PROPOSAL	Replacement dwelling		
APPEAL TYPE	DC - Conditions of Approval		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	29/05/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	8	PAC Ref:	2018/A0027
Planning Ref:	LA07/2016/1407/	DEA	The Mournes
APPELLANT LOCATION	Richard Newell 75A Glassdrumman Road Annalong <i>Co. Down</i>		
PROPOSAL	Proposed extension of curtilage of existing dwelling house and retention of existing Domestic Boat House and Yard		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	30/05/2018
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	9		
Planning Ref:	LA07/2016/1276/	PAC Ref:	2018/A0029
APPELLANT	Mr D Boal	DEA	Rowallane
LOCATION	3 Main Street Ballynahinch		
PROPOSAL	Subdivision of existing retail unit to 2No. Retail Units and Change of Use to 4No apartments with extension to first floor to provide 2No. Apartments		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	01/06/2018
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:	LA07/2017/1192/	PAC Ref:	2018/A0030
APPELLANT	Tranquility Ireland	DEA	Newry
LOCATION	97 Fathom Line Fathom Lower (Main Portion)		
PROPOSAL	Retention of change of use of domestic dwelling and garage to three short term holiday let accommodation with alterations		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	01/06/2018
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	11		
Planning Ref:	LA07/2017/0969/	PAC Ref:	2018/A0046
APPELLANT	Mr Peter Clerkin	DEA	Crotlieve
LOCATION	160m South Of 106 Leitrim Road Hilltown		
PROPOSAL	Proposed retention and extension of farm shed (amended address)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	11/07/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	12		
Planning Ref:	LA07/2017/0492/	PAC Ref:	2018/A0050
APPELLANT	East Coast Coaches	DEA	Crotlieve
LOCATION	70 Metres East Of 72 Rathfriland Road Newry		
PROPOSAL	Temporary permission for hard standing (area to be used for the parking and turning of coaches associated with existing bus and taxi depot)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	17/07/2018
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	13		
Planning Ref:	R/2014/0079/F	PAC Ref:	2018/A0054
APPELLANT	Mr Brendan Maginn	DEA	The Mournes
LOCATION	Approx 285m South West Of No 63 Dundrine Road Castlewellan		
PROPOSAL	Retention of as constructed 225 kw wind turbine with a tower height of 39.5m (to supersede previous wind turbine approval ref R/2010/0555/F)		
	(Additional surveys/info received)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	30/07/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	14		
Planning Ref:	LA07/2017/1802/	PAC Ref:	2018/A0064
APPELLANT	Mrs Bridget Hasson	DEA	Slieve Gullion
LOCATION	80m North East Of No 50 Malahy Conlon Park Cullaville Road Cullaville		
PROPOSAL	Proposed infill dwelling and domestic garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	10/08/2018
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	15	PAC Ref:	2018/A0065/F
Planning Ref:	LA07/2017/1668/	DEA	Rowallane
APPELLANT	Mr & Mrs Joseph Bell		
LOCATION	33 Cluntagh Road Crossgar		
PROPOSAL	RT30 QFT Conversion of stables to domestic annex to be used as granny flat		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	10/08/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	16	PAC Ref:	2018/A0066
Planning Ref:	LA07/2017/1394/	DEA	Slieve Croob
APPELLANT	Mr B And Mrs A Gibney		
LOCATION	80m East Of 89 Demesne Road Edendarriff		
PROPOSAL	Rallynahinch Dwelling and garage on a farm		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	10/08/2018
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	17	PAC Ref:	2018/AO021
Planning Ref:	LA07/2018/0166/	DEA	Slieve Gullion
APPELLANT	Sean Nugent		
LOCATION	60m East Of 66 Slatequarry Road Cullyhanna		
PROPOSAL	Retention of existing farm shed		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	15/05/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	18	PAC Ref:	2018/E0014
Planning Ref:	LA07/2017/0665/	DEA	Newry
APPELLANT	Mr James K. Donnelly		
LOCATION	110 Metres North West Of No. 240 Dublin Road Killeen		
PROPOSAL	^{Newry} Retention of agricultural building, erected under permitted development		

APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	14/06/2018
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	19	PAC Ref:	2018/E0017
Planning Ref:	LA07/2018/0363/	DEA	Rowallane
APPELLANT LOCATION	Mr And Mrs S Thompson 19A Rathcunningham Road Toye		
PROPOSAL	Downpatrick Use of 19A as a dwelling separate from 19		

APPEAL TYPE	DC- Refusal of CLUD	Date Appeal Lodged	28/06/2018
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	20	PAC Ref:	2018/E0022
Planning Ref:	LA07/2018/0373/	DEA	Crotlieve
APPELLANT LOCATION	James Purdy 78b Upper Dromore Road Warrenpoint		
PROPOSAL	Car bodywork repairs and construction sealants distribution.		

APPEAL TYPE	DC- Refusal of Planning Permission	Date Appeal Lodged	11/07/2018
Appeal Procedure	Written Reps		
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:	2017/A0202
Appeal by:	Mr Vincent McGuinness
Appeal against:	The refusal of full planning permission
Proposed Development:	Retention of existing industrial units and yard area for use as a waste transfer station. Includes associated car parking external storage area and weighbridge
Location:	210 metres south of 30 Low Road, Kileavey, Newry, BT35 8SU
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2017/0114/F
Procedure:	Hearing on 13 June 2018
Decision by:	Commissioner Rosemary Daly, dated 30 August 2018

Decision

1. The appeal is allowed full planning permission is granted, subject to the conditions set out below.

Preliminary Issue

2. The appellant did not provide a statement of case within the required timescales as set out by the Commission. At the hearing the appellant stated in order to be helpful to the Council, they had sent a copy directly to the Council prior to the hearing. The representative from the Council stated that such action was inappropriate and that they had not had time to consider this evidence. Notwithstanding these concerns raised by the Council the appellant set out the reasons why the submission of the statement of case was late and concluded that they were happy to present their evidence orally at the appeal hearing.
3. In the Council's statement of case reason for refusal 5 relating to Planning Policy Statement 4 Planning and Economic Development were withdrawn. Additionally reason for refusal 3 was amended, to make reference to Policy WM2 of Planning Policy Statement 11 Planning and Waste Management

Reasons

4. The main issues in this appeal relate to:
 - a. the principle of the development in the countryside;
 - b. the visual impact of the development on the character and appearance of the countryside in an Area of Outstanding Natural Beauty (AONB);
 - c. the impact of the development on the surrounding residents; and

- d. the impacts of the development on the flow of traffic and road safety in the area.
5. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that determination of proposals must be made in accordance with the local development plan unless material considerations indicate otherwise. The extant local development plan for the area is the Banbridge/Newry and Mourne Area Plan 2015 (BNMAP). The appeal site is located in the countryside area around 1 kilometre east of the village of Meigh. The site is located with the Ring of Gullion AONB which is noted in the plan but is not within the Ring of Gullion Special Countryside Area. The plan provides no specific policy provision for the consideration of the appeal development located in an AONB.
6. BNMAP does emphasis the Regional Development Strategy guidance which seeks to manage our waste sustainably. Page 42 (Vol 1) of the plan refers matters relating to waste are considered in the Waste Management Strategy for Northern Ireland and refers to the new approach to waste management driven forward by the UK and EU commitment to sustainable patterns of development which requires the reuse, recycling and recovery of material from our waste.
7. In respect of economic development the plan makes an allocation of some 170.66 hectares of land in settlements in Newry and Mourne area. No specific land is zoned for economic development in villages and small settlements except for an extension to the existing industrial estate at Jonesborough. The plan is silent on site specific waste management and economic uses in the open countryside.
8. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.
9. In respect of the appeal development no conflict arises between the SPPS and the prevailing regional policy set out by Planning Policy Statement 21 Sustainable Development in the Countryside (PPS21); Planning Policy Statement 11 Planning and Waste Management (PPS11); and Planning Policy Statement 2 Natural Heritage which makes policy provision for the consideration of new development in an AONB.
10. Policy CTY1 of PPS21 states there are a range of types of development which in principle is considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The policy sets out specific cases of non residential development where planning permission will be granted. None of these cases refer to the development of a waste transfer facility. Policy CTY1 continues to state that are a range of other types of non residential development that may be acceptable in principle in the countryside and that such proposals will continue to be considered in accordance with published planning policies. PPS11 sets out the prevailing policy for the development of waste management facilities.

11. The development on the site relates to the retention of a waste transfer facility with associated car parking and storage. The appellant's 'waste facility working plan (WFWP) states the facility receives recyclable material such as plastic, paper and cardboard. Table 1.4 Appendix 1 of the WFWP provides a list of the permitted wastes to the site. The WFWP states the wastes fall within non-hazardous or inert classification and that no putrescible or odorous wastes are accepted at this site. Table 5.1 of the WFWP also sets out the prescribed quantities of the permitted waste to be processed/stored on the site. At the appeal hearing the appellant stated that this amounted to around 30,000 tonnes of waste per year, some 60 to 70 tonnes of waste per day. The site does not include any waste disposal facilities. The appellant stated the parked lorries and vehicles around the site, which I note to be located outside the appeal site boundary, are not part of this application or relate to the waste transfer facility on the site therefore I am satisfied that the development does not relate to vehicle dismantling as referred to in paragraph 5.5 of the Council's statement of case.
12. The waste to the site is received directly from waste producers and also from third party waste contractors. A mix of dry recyclables are brought to the facility by skip lorries and rigid body lorries. Once unloaded the waste is segregated by type and baled. Segregated waste is then stored in designated storage areas waiting transfer off the site for further waste treatment and re-use.
13. The appellant stated that some 15 full time members of staff are employed at the premises. The WFWP states the hours of operation are from 7.00 am to 8.00 pm Monday to Friday, 7.00 am to 1.00 pm on Saturdays and closed on Sundays. At the appeal hearing the appellant stated that these hours of operation could be reduced to 8.00 am to 6.00 pm Monday to Friday, 8.00 am to 1.00 pm on Saturdays and closed on Sundays. It is these operating times that I will consider in this appeal.
14. Policy WM2 of PPS11 relates to waste collection and treatment facilities. It sets out the requirements for the development of a waste collection or treatment facility. Criterion (a) states development will be permitted where there is a need for the facility as established through the Waste Management Strategy for Northern Ireland (WMS) and the relevant Waste Management Plan (WMP) for the area. The need must be demonstrated to the satisfaction of the Department or in this instance the Planning Authority.
15. The appellant stated that the development on the site meets with the need for a spread of waste transfer facilities throughout the southern area. The appellant also stated development is in keeping with the waste management hierarchy as advocated in the Northern Ireland Waste Management Strategy (WMS) and the relevant Waste Management Plan (WMP) for the area (established by the Southern Waste Management Partnership (SWaMP)).
16. Furthermore the appellant also claimed the operation of the waste transfer facility operating with a waste management licence in accordance with the Waste Management Licensing Regulations (Northern Ireland) 2016, as amended, at the site since 2015 also established the need for the facility in the area. The WMS for Northern Ireland sets out a recycling target of 60% for local authority municipal waste by 2020, according to the appellant this target has now been increased to 75%.The appellant stated the Northern Ireland WMS advocates an integrated

network of waste transfer sites and the government targets relating to the reduction and reuse of waste as set by the WMS have not yet been met. The waste transfer facility is within the remit of a small scale operation working towards meeting the government targets.

17. The Council did not dispute the need for the waste transfer facility in accordance with the Waste Management Strategy and the relevant Waste Management Plan for the area. Their concern was to its location in an AONB. No persuasive evidence was presented to indicate that there is not a need for the facility. Taking account of appellant's evidence, at the hearing, the waste transfer facility is consistent with the approach to reuse, recycle and recover waste materials as indicated by the Northern Ireland WMS. On the whole I am satisfied, given the modest scale of the development which assists the sorting and recycling of materials and enables a spread of such facilities in the southern area is in accordance with the WMS and WMS. I have no reason to conclude that there is not a need for this waste transfer facility in this area. The appeal development is consistent with criterion (a) of Policy WM2.
18. The requirement of Criterion (b) of Policy WM2 relating to the Best Practicable Environmental Option (BPEO). Following the publication of the Waste Management Strategy 'Delivering Resource Efficiency' the Department issued an update to state it will no longer treat the BPEO as a material consideration in the planning process. This is therefore no longer a requirement in PPS11.
19. Criterion (c) of Policy WM2 sets out the locational criteria for such facilities. In respect of development in the countryside proposals should involve the reuse of existing buildings or is on land with or adjacent to existing building groups. It goes on to say alternatively where it is demonstrated that new buildings/plant are needed these must have an acceptable visual impact and environmental impact.
20. The appeal development is located immediately adjacent to an established complex of buildings located in the countryside. A map provided by the Council noted that the complex to which the appeal development relates comprises of seven buildings (the buildings were noted A3, B2, C1, D4, E6, F7, and G5). Four of the buildings directly front onto Low Road (A3, B2, C1, and D4). Appeal decisions 2007/E089 and 2007/E070 dated 15 June 2009 established that buildings A3, B2 and C1 located along the front part of Low Road were immune from enforcement. Additionally the hatched concrete area to the front of the building along Low Road is also immune from enforcement. Buildings A3, B2 are occupied by SVG Marble and Granite which is an established industrial/commercial use on the adjacent site.
21. Buildings E6 and E7 are not within the appeal site. The appeal development therefore relates to buildings C1, D4 and part of building G5. The building C1, D1 and part of G5 are now conjoined. The matters to be considered in this appeal are does the use of the existing building C1, the retention of building D4 and part of building G5 as a waste transfer station including the rear yard and associated development comply with the locational criteria as specified in criterion (c) of policy WM2.
22. Building C1 is a large established building on the site. Building D4 and the part of building G5 appears a side and rear extension to the main complex of buildings on

and adjacent to the appeal site. Buildings C1 and D4 are set back around some 17 metres from the front elevation of adjoining building that is occupied by SVG Marble and granite. Both the unauthorised buildings (D4 and G5) are subordinate in size and appearance to the main complex of established buildings. I do not consider the expansion of the established building complex by virtue of building D4 and part of G5 to give rise to an unacceptable visual appearance of itself on the surrounding character of the area. The appeal development involves the reuse of existing buildings and is on land adjacent and within an existing group of buildings in the countryside. The new plant, including the weigh bridge and rear yard required for the waste transfer station do not give rise to unacceptable visual or environmental impact as they are screened by the large building complex and the boundary vegetation around the rear part of the site. The development involves the reuse of an established building and is adjacent to an existing building group in the countryside. It therefore meets this element of the locational criteria in the countryside. The matters relating to the environmental and visual impact are considered further below.

23. Criterion (d) of Policy WM2 sets out further five criteria. Whilst I do not consider the development on the site to be of a regional scale it does benefit from easy access to Newry, close to B113 Forkhill Road which leads directly onto the A1 transport corridor. In any case I consider the appeal development sits favourably with this element of criterion (d).
24. For proposals involving the sorting and processing of waste, the criteria states they should be carried out within a purpose built or appropriately modified building unless it can be demonstrated that part or all of the proposed operation can only be carried out in the open. The appellant explained that waste materials are delivered to the site, transferred from lorries to the external enclosed yard to the rear. The waste materials are then brought into the buildings stored and are separated and sorted accordingly. The waste is then compacted into bails some of which are stored outside for collection by lorries to be transported off the site. The yard to the rear of the site is therefore used for delivery and collection of waste and the activity of sorting and processing the waste takes place internally. I am satisfied that the development on the site is consistent with this element of criterion (d).
25. The buildings comprise large warehouse buildings and associated yard appropriate for the sorting and processing of waste. The appellant advised that drainage measures, including an interceptor system, have been put in place to reduce the risk of any run off from the site. The existing building and the retention of the extension of this building have large doorways to permit access for large vehicles in and out of the buildings. The rear yard is surrounded by a high fence compound. The buildings and the yard of themselves appear appropriate for the nature for the type and amount of the waste brought to the site. The development does not involve hazardous waste or the incineration of waste. Furthermore the development does not directly involve the recovery of energy from waste brought to the site. The development on the site does not offend these elements of criterion (d).
26. The final element of criterion (d) is the development will not result in an unacceptable adverse environmental impact that cannot be prevented or appropriately controlled by mitigation measures (see Policy WM1). The Council's

- concerns relates to the proposal being compatible or sympathetic with the landscape character of the surrounding area located in an AONB.
27. The compatibility of the development with the character of the surrounding area is also a consideration of Policy WM1 of PPS11. Likewise Policy NH6 of PPS2 states that planning permission for new development in an AONB will only be granted where it is of an appropriate design, size and scale for the locality.
 28. The existing building complex is already an established feature in this part of the Slieve Gullion AONB. The Council stated that such uses would be better placed in an urban area. However the locational criteria for development in the countryside as expressed in Policy WM2 and the SPPS allows for the reuse of existing buildings or on land within and adjacent to existing building groups. The design, scale and size of the retention of the building to accommodate the appeal development appear compatible in the context of the adjoining established building complex. The rear yard is surrounded by mature vegetation which restricts views into the yard from the surrounding area.
 29. From the Forkhill Road, the settlement of Meigh, and from the railway line, only views of the front elevation of the building are possible and all these views are seen in conjunction with the established building complex the expansion of the building complex to include building D4 and G5 does not significantly alter the appearance and scale of the building complex on the appeal site and adjoining site. From these surrounding viewpoints only intermittent glimpse of the building located on the flat low lying land in the AONB are possible. Surrounding road side and field hedgerows and other buildings in the area substantially restrict views of the entirety of the building complex inclusive of the appeal development.
 30. From Slieve Gullion Country Park, views are from an elevated area looking down and over the wider landscape of the AONB. From here the existing building appears as an established complex dotted in the landscape surrounded by existing development and filtered by mature vegetation. The appeal development reads as part of the existing building complex and the retention of the extension (D4 and part of G5) does not significantly add to the appearance or scale of the existing complex when viewed from this area.
 31. Appeal decision 2012/A0316 related to the retention of the 5 sheds for agricultural use. In this appeal the Commissioner considered the visual impact of the complex of buildings in the area. I have also looked at the development from the surrounding road network along Low Road and Lower Newtown Road. In this close up area views of the development on the site are screened by roadside and intervening field boundaries. Only the upper half of the building complex is visible. The greatest visual impact is the larger part of the build complex, which is immune from enforcement, and is occupied by SVG Granite and Marble. The additional building (D4) add only marginally to the scale, appearance and size of the existing complex. The design, colour, scale of the appeal development match the existing building on the site. From a distance the building complex including the appeal site appear as one large unit. To the rear of the building complex and the yard, is substantially screened by rows of conifers along the field boundaries. The retention of this screening could be conditioned to ensure the level of screening is maintained to the rear part of the site.

32. Access to the site is via a shared access which permits traffic to the rear of the building and to the side and rear of the established building occupied by SVG Marble and Granite. The appearance of the access is not exacerbated by the use of the appeal site and is only visible from the roadside immediately in front of the complex of buildings.
33. Having made a visual assessment of the appeal development, including the use of the buildings, I have not been persuaded that the retention of buildings (D4 part of G5) or the use of established buildings on the site, as a waste transfer station, give rise to an unacceptable visual impact on the surrounding landscape or the character of the AONB. The appeal development therefore has an acceptable visual impact in accordance with the locational criteria specified in Policy WM2 for development in the countryside.
34. Additionally, taking account of the scale, nature and character of the surrounding area I do not find that the retention of building D4 or the use of the established buildings as a waste transfer station gives rise to concerns in respect of the criteria specified in Policy CTY 13 relating to the integration and design of buildings in the countryside or Policy CTY14 relating to rural character of PPS21. As concluded above I do not find the development to have an unacceptable visual impact and therefore I conclude the development does not offend this criterion of Policy WM1 of PPS11 as it is compatible with the character of the surrounding area. Accordingly the Council's reasons for refusal 2, 3, 6 and 7 are not sustained
35. The environmental criteria as expressed by Policy WM1 states that proposals for development should not give rise to harm to human health or result in an unacceptable adverse impact on the environment. Paragraph 4.11 of the SPPS states in respect of safeguarding residential amenity there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account. The Council's reason for refusal 8 relates to concerns in respect of this element of Policy WM1 harm to the living conditions of the residents at Low Road due to the level of activity associated with the premises by reason of noise and general nuisance.
36. The appeal site is adjoined to an established industrial use (SVG Granite and Marble) along this part of the Low Road. The appellant's WFWP describes measure to control and monitor noise from the appeal site. A separate noise assessment (dated 28th April 2017) and an amended noise assessment (dated 7 August 2017) were undertaken and provided to the Council. The assessments took measurements from the surrounding sensitive noise receptors along Low Road and Lower Newtown Road. The conclusion of the assessments was there was no significant noise impact from the development and that the predicted noise levels do not exceed the World Health Organisation 'Guidelines for Community Noise' 50-55 dB L_{Aeq} limits for external amenity space. The predicted noise levels are likely to fall within the range of 'Noticeable but not intrusive' as the site may be audible but regard to BS41423 it is not likely to exceed the existing ambient noise levels. The Environmental Health Department (EHD) of the Council considered the noise assessment and concluded they had no objections in respect of noise subject to the restrictions of the operation hours as set out in the appellant's WFWP.

37. A letter from 'very concerned residents' raised issues relating to noise from plant machinery and lorries. I note that noise from plant machinery and lorries loading and unloading at the site was considered in the noise assessment. The third party concerns were not substantiated with evidence to persuade me that the development gives rise to an unacceptable level of noise. Accordingly I find the evidence from the Council and EHD having considered the noise assessments in respect of the development to be significant in this case. Furthermore the restriction of the operating hours by means of a planning condition to those times suggested by the appellant would ensure that any noise impact could be limited to operating hours only. Accordingly the concerns relating to noise nuisance from the development are not determining in this case.
38. The Council stated the development gives rise to a general nuisance in this area more in keeping with an urban context such as in an industrial area. The Council did not expand further to outline what the source of the general nuisance concerns related to. To my mind, the Council when considering this issue does not take account of the adjacent established industrial use. The appeal development must be considered in its surrounding context. It was accepted that general nuisance such a litter, odour and vermin associated with such industrial site, particularly waste management sites were all issues that are monitored and controlled by the waste management licence, which the development also requires to lawfully operate. Part 5 of the appellant's WFWP sets out measures to manage and monitor amenity impacts relating to dust, fibres and particulates from the site, control of odours, noise, pests, scavenging birds and other scavengers and control of litter. The Council or third party objectors did not provide any persuasive evidence to demonstrate that these nuisance issues would cause a demonstrable harm to human health or an unacceptable adverse impact on the environment.
39. Third parties raised concerns relating to environmental pollution, dust and windblown rubbish around the area. Rivers Agency stated there are no designated watercourses within the site; the site does not lie within any flood plain therefore environmental pollution into surrounding watercourses is limited. At the appeal hearing the appellant stated that interceptors had been put in place to limit the impacts of drainage from the site. A condition restricting the type of waste (including the European Waste Catalogue Codes) is necessary to control the type of waste brought to and sorted on the site. This would also limit any environmental impacts from the development. In respect of concerns relating to rubbish and dust coming from the site I note that the appellant must adhere to the relevant precepts in respect of pollution prevention and that would be regulated by means of a waste management licence for the development which I note the appellant has applied for in this case. Accordingly I do not find these concerns to be determining in this case.
40. Section 4 of the appellant's WFWP describes how the site operations and includes measures to address fire management and prevention on the site. I note the third parties concerns of fire risk relating to the storage of a large amount of flammable material, these concerns were not substantiated with evidence to persuade me that the site give rise to an unacceptable risk of fire. Third parties stated that fires are lit on an ongoing basis which normally takes place after 6 pm in the evenings and weekends or bank holidays. No evidence was presented to demonstrate the nature and frequency of such fires. I therefore do find these allegations to be determining. Restricting the operating times, including bank holidays and public

holidays would mean that such activity on the site should not happen outside of operating hours. Accordingly these objections and the Council's reason for refusal 8 are not determining in this case and are not sustained.

41. Policy WM1 of PPS11 also requires that the road network can satisfactorily accommodate, or can be upgraded to accommodate, the traffic generated and that adequate arrangements shall be provided within the site for parking, servicing and circulation of vehicles. Third parties raised concerns relating to damage to country roads and potholes and danger of meeting lorries. These concerns were not supported with corroborative evidence. The Council's reason for refusal 9 raised related to the inadequate road infrastructure to facilitate the development and therefore give rise to concerns relating to road safety and the inconvenience to the flow of traffic.
42. At the appeal hearing the appellant stated that 15 staff are employed at the facility, but that most of the staff shared transport to and from the site. It was also stated that 3 HGV delivered/collected around some 60 to 70 tonnes of waste per day to and from the site. These traffic movements related to the prescribed quantity waste storage on the site. A condition ensuring the development relates to waste storage categories and quantities is necessary to control the scale of the development on the site.
43. The Low Road, which the site is accessed from, is a minor country road. In the area is a low bridge and level crossing associated with the neighbouring railway line. As part of the planning application the appellant had completed a transport assessment form. At the appeal hearing the representative from the Department of Infrastructure Roads Department (DFI) stated the further clarification at the hearing in respect of vehicle movements including the amount of waste moved on and off the site means they do not have concerns relating to the impacts of the development on road safety and the convenience of road users in the area. They accepted that visibility splays of 2.4 meters by 70 metre would be adequate to achieve a safe access to the site. It was noted that this requirement is achievable at the point of the existing access. Subject to a condition ensuring that visibility splays of 2.4 meters by 70 metres are provided at the point of access DFI stated they did not have any objection to the development on the site. Such visibility splays are necessary to ensure that the access will not prejudice the road safety or significantly inconvenience the flow of traffic onto the Low Road at the point of access to the site. No objections were raised by the Roads Department in respect of the internal servicing, parking and circulation on the site.
44. I have noted the third party concerns in respect of traffic on the road infrastructure in the area. As noted above a safe access can be achieved to facilitate the development onto Low Road, no persuasive evidence has been provided to lead me to consider the third party concerns over ride the opinion of the DFI Roads Department. I am satisfied the development can meet the necessary road safety requirements and adequate arrangements for traffic using the site as set by Policy WM1 of PPS11 and Planning Policy Statement 3 Access Movement and Traffic (PPS3). Accordingly the objections on road safety and the Council's reason for refusal 9 are not determining in this appeal.
45. Furthermore having now considered the impacts of the development on the surrounding environment, which I have found not to be determining and which can

- be controlled and managed to a great extent by the Waste Management Licence required to operate the waste transfer facility on this site. A breach of any of these issues could result in the loss of the necessary Waste Management Licence required to operate the facility. I therefore do not consider the development give rise to an unacceptable impact on the environment. The development therefore meets this part of the locational criteria for such development in the countryside in accordance with Policy WM2 of PPS11. The Council's reason for refusal is therefore not sustained.
46. The Council's fourth reason for refusal states that the proposal is contrary to the Local Development Plan as it falls outside the town centre boundary, industrial area as designated in the BNMAP. The Council noted that plan makes provision for sufficient industrial land to accommodate the development of a waste transfer station. As noted above the Council did not contest the need for the development but for its visual impact on the AONB. Paragraph 7.2 of the justification and amplification of Policy WM2 indicates policy is to seek to facilitate the increase in the number, type and range in size of waste treatment facilities in line with the WMS and the relevant WWP. BNMAP is silent on the locational requirements of such waste treatment facilities. The criteria and location requirements as set out in Policy WM2 of PPS11 and the SPPS makes provisions for such development in countryside areas. The appeal development satisfies the locational requirements for development in the countryside. Accordingly I consider the Council's reason for refusal 4 to be misplaced as a determining issue for such development in the countryside.
 47. Concerns were also raised about the development devaluing property in the area. The appeal site is adjacent to an existing industrial building in the countryside. I was told at the hearing that waste transfer station has been operating on the site for around 4 years. The third parties concerns were general and were not supported with evidence to demonstrate how the use of the site has resulted in a devaluation of properties in the area. Accordingly this concern is not determining in this case.
 48. All in all the appeal development for a waste transfer station and associated development is consistent with the requirements of WM1 and WM2 of PPS11 and that as expressed in the SPPS. The development meets the need to reduce and recycle waste in the southern area of Northern Ireland and meets the locational criteria for such development in the countryside. The development therefore does not offend policy CTY1, CTY13 or CTY14 of PPS21 or similar policies stated in the SPPS. Furthermore I do not find the development to be contrary to the BNMAP.
 49. The visual impacts of the development on the surrounding character of the area and the wider AONB are limited to the site and its immediate surroundings including the established building complex in the area. The design, size and scale of the development therefore have limited impact on the AONB and are consistent with policy NH6 of PPS2. Furthermore I have considered the impact of the development on the surrounding neighbouring amenity which I have found not to be determining in this case. The appeal development is therefore an acceptable other type of development in accordance with Policy CTY1 of PPS21, the Council's reason for refusal 1 is not sustained. As all of the Council's reasons for refusal have not been sustained the appeal is therefore allowed subject to the conditions set out below.

Conditions

1. The hours of operation of the development hereby approved shall be limited to 8.00 am to 6.00 pm Monday to Friday and 8.00 am to 1.00 pm on Saturdays and closed all day on Sundays, bank holidays and public holidays. No machinery shall be operated, no processes shall be carried out and no deliveries taken at or dispatched from the site outside of these hours.
2. The waste materials to be accepted at the waste transfer facility hereby approved shall be restricted to those falling within the European Waste Catalogue Codes listed in the table below.

	Waste from agriculture, horticulture, aquaculture, forestry, hunting and fishing
02 01 04	waste plastics (except packaging)
02 01 10	waste metal
	Waste from wood processing and the production of panels and furniture, pulp, paper and cardboard
	Waste from wood processing and the production of panels
03 01 01	waste bark and cork
03 01 05	sawdust, shavings, cutting, wood, particle board and veneer other than those mentioned in 03 01 04
	Waste from pulp, paper and cardboard production and processing
03 03 01	waste bark and wood
03 03 07	mechanically separated rejects from pulping of waste paper and cardboard
03 03 08	wastes from sorting of paper and cardboard destined for recycling
03 03 10	fibre rejects, fibre, filler and coating sludge's from mechanical separation
	Waste from the leather and fur textile industry
04 02 09	wastes from composite materials (impregnated textile, elastomer, plastomer)
04 02 12	wastes from finishing other than in 04 02 14
04 02 21	wastes from unprocessed textile fibres
04 02 22	wastes from processed textile fibres
	Waste from organic chemical processes
07 02 13	waste plastic
07 02 17	wastes containing silicones other than those mentioned in 07 02 16
	Wastes from photographic industry
09 01 07	photographic film and silver and silver compounds
09 01 08	photographic film and paper free of silver and silver compounds
	Wastes from thermal processes
10 11 12	waste glass other than those mentioned in 10 11 11
	Wastes from shaping and physical mechanical surface treatment of metals and plastic level
12 01 05	plastics shavings and turnings
	Waste packaging, absorbents, wiping cloths, filter materials and protective clothing not otherwise specified.
15 01 01	paper and cardboard packaging
15 01 02	plastic packaging
15 01 03	wooden packaging
15 01 04	metallic packaging
15 01 06	mixed packaging
15 01 07	glass packaging
15 01 09	textile packaging
	Absorbents, filter materials, wiping cloths and protective clothing
15 02 03	absorbents, filter materials, wiping cloths and protective clothing other than those mentioned in 15 02 02
	Wastes not otherwise specified in the list
16 01 17	ferrous metals
16 01 18	non-ferrous metals
16 01 19	plastic

16 01 20	glass
	Construction and demolition wastes (including excavated soil from contaminated sites).
	Concrete, bricks, tiles and ceramics
17 01 01	Concrete
17 01 02	bricks
17 01 03	tiles and ceramics
17 01 07	mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 17 01 06
	Wood, glass and plastic
17 02 01	Wood
17 02 02	glass
17 02 03	plastic
	Metals (including their alloys)
17 04 01	copper, bronze, brass
17 04 02	aluminium
17 04 03	lead
17 04 04	zinc
17 04 05	iron and steel
17 04 06	tin
17 04 07	mixed metals
17 04 11	cables other than those mentioned in 17 01 10
	Soils (including excavated soil from contaminated sites) stones and dredging spoil
17 05 04	soil and stones
	Insulation materials and asbestos containing construction materials
17 06 04	insulation materials other than those mentioned in 17 06 01 and 17 06 03
	Gypsum based construction material
17 08 02	gypsum-based construction materials other than those mentioned in 17 08 01
	Other construction and demolition waste
17 09 04	mixed construction and demolition wastes other than those mentioned in 17 09 01, 17 09 02 and 17 09 03
	Waste from waste management facilities, off site waste water treatment plant and the preparation of water intended for human consumption
	Wastes from mechanical treatment of waste (for example sorting, crushing, compacting, palletising and otherwise specified)
19 12 01	paper and cardboard
19 12 04	plastic and rubber
19 12 05	glass
19 12 07	wood other than that mentioned in 19 02 06
19 12 08	textiles
19 12 09	minerals (for example sand, stones)
	Municipal waste (household waste and similar commercial industrial waste and institutional wastes) including separately collected fractions
	Separating collected fractions (except 15.01)
20 01 01	paper and cardboard
20 01 02	glass
20 01 10	clothes
20 01 11	textiles
20 01 38	wood other than that mentioned in 20 01 37
20 01 39	plastics
20 01 40	metals
	Garden and park waste
20 02 02	soil and stones
20 02 03	other non-biodegradable wastes
	Other municipal wastes
20 03 01	mixed municipal waste
20 03 03	street-cleaning residues
20 03 07	bulky waste

3. Visibility splays of 24 metres by 70 metres should be provided at the point of access of the development onto the Low Road within 4 weeks of the date of this decision. Thereafter it should be permanently retained.
4. The existing mature boundary vegetation along the site's southern and eastern boundary shall be permanently retained at a height above 4 metres above ground level. Any vegetation along these boundaries that is removed or becoming seriously damaged shall be replaced with vegetation of a similar size and species unless the planning authority gives written consent to any variation.
5. The waste acceptance and storage thresholds on the site should not exceed the limits as set out on Table 1.5 below

Table 1.5 Waste Storage		
Permitted Waste Categories		Maximum Permitted Quantities
<u>Unprocessed waste</u>	Maximum Daily Intake	100 tonnes
	Maximum storage capacity	75 tonnes
	Maximum annual throughput	30,000 tonnes
	Maximum storage time	10 working days
<u>Segregated Wastes</u>	Scrap Metal	15 tonnes
	Wood	15 tonnes
	Paper and cardboard	75 tonnes
	Plastics	250 tonnes
	Residual Waste	25 tonnes
<u>Quarantined, non-permitted wastes</u>	Oil	500 litres
	Lead batteries	1 x 10m ³ battery box
	Gas bottles	1x2m ³ cage
	Tyres	20 tyres
Quarantined wastes should be removed from the site within 5 working days unless listed above.		

This decision is based on the following drawings:-

- Drawing 01 Site location Map date received 24 Jan 2017
- Drawing 02 WML Site Layout date received 24 Jan 2017
- Drawing 03 Figure 2 Site Layout date received 24 Jan 2017
- Drawing 04 Waste Transfer Station floor plan received 24 Jan 2017
- Drawing 05.Waste Transfer Station elevations received 24 Jan 2017
- Drawing 06 Site drainage plan received 24 Jan 2017
- Drawing 07 Site Access received 24 Jan 2017

COMMISSIONER ROSEMARY DALY

List of Appearances

Planning Authority:- Mr G Murtagh, Newry, Mourne and Down District Council
Mr R Loughan, DFI Roads

Appellant:- Mrs G Jobling
Mr V McGuinness

List of Documents

Planning Authority:- "A" Statement of Case and Appendices, Newry, Mourne and
Down District Council
PAC1 – Map defining buildings on the site and adjacent site

Appellant:- PAC2 Aerial photograph of the site



Appeal Decision

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Appeal Reference:	2018/A0008
Appeal by:	Mr Lindsay Martin
Appeal against:	The refusal of full planning permission
Proposed Development:	Retention of shed for equestrian use
Location:	To the rear of 23 Ballymaderphy Road, Lisnacree, Kilkeel
Planning Authority:	Newry, Mourne & Down District Council
Application Reference:	LA07/2017/0195/F
Procedure:	Written representations and Commissioner's site visit on 25 July 2018
Decision by:	Commissioner Brigid McGlinchey dated 6 August 2018

Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions set out below.

Reasons

2. The main issues in this appeal are whether the proposal is acceptable in principle in the countryside and whether the building integrates into the surrounding landscape.
3. The Planning Act (Northern Ireland) 2015 requires the Commission, in dealing with the appeal to have regard to the local development plan, so far as material to the planning application, and to any other material considerations. The Banbridge Newry & Mourne Area Plan 2015 operates as the local development plan for the area where the site is located. In the plan, the site lies in the countryside outside any settlements. The plan contains no provisions material to the site or the appeal proposal. The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. This policy document sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy. During this transitional period planning authorities will apply the SPPS and retained policy documents.
4. Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a relevant retained policy document. Policy CTY1 of PPS21 lists the types of development which in principle are considered to be acceptable in the countryside and will contribute to the aims of sustainable development. It indicates that planning permission will be granted for outdoor sport and recreation uses in accordance with PPS8 (Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation) which is another pertinent retained policy document in this case.

5. The proposal seeks the retention of a building which has been the subject of an unchallenged enforcement notice served in February 2010 which required the demolition of the building. The building is located to the rear of the appeal site behind a dwelling and garage positioned towards the site frontage. Though the appellant owns the dwelling and garage, he is not in control of the appeal building. Whilst previous planning applications have been submitted seeking the retention of the building for various uses and were deemed not to be acceptable, this does not preclude consideration of the appeal proposal.
6. Policy OS3 of PPS8 indicates that proposals for outdoor recreational use in the countryside will be permitted where all of eight criteria are met. The various types of outdoor recreational uses are referred to in the justification and amplification of the policy. Paragraph 5.33 specifically deals with 'Equestrian Uses' and states that outdoor participatory recreational uses such as riding schools will normally be considered acceptable in principle provided the scale of ancillary buildings is appropriate to its location and can be integrated into their landscape. Whilst only the example of riding schools is stated as being acceptable in principle, this would not bar consideration of other equestrian uses under the policy. The appellant indicated that the proposed equestrian use is to facilitate horse riding and that it is for commercial purposes. Though he has made reference to training and grooming horses in his comment on proposed draft conditions, the nature of the proposed equestrian business has not been clearly stated. Notwithstanding the lack of details regarding the proposal, the policy makes no distinction between types of equestrian uses or between private and commercial uses.
7. Paragraph 5.33 goes on to state that wherever possible, consideration should be given to the reuse of existing traditional or redundant farm buildings in association with such proposals. Although the building is not a farm building having been initially erected for servicing vehicles and is the subject of an enforcement notice, this does not prevent consideration of its acceptability for use for equestrian purposes under this policy. Though the building with a footprint of approximately 157sqm and a ridge height of 6.7m is relatively large compared to many typical buildings designed for domestic equestrian use, the appellant has indicated that proposal is commercial in nature. The appeal building is commensurate with the design and size of many outbuildings seen in the wider locality and the appellant has asserted that the scale and height of the building, which has a large sliding door on one gable, would facilitate loading and unloading of horseboxes and trailers.
8. None of the listed criteria to be met under Policy OS3 entails provision of supporting information to demonstrate that there is a need for this type of development within the rural area. The planning authority's argument presented in this regard is therefore misplaced. The concern as set out in its reason for refusal relates to criterion (iii). This criterion requires that there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography. The stated objection is that the development cannot be readily absorbed into the landscape due to the lack of existing vegetative screening.
9. This issue of impact of the building on the landscape under Policy OS3 overlaps with tests set out in Policy CTY13 of PPS21 which deals with the integration of buildings in the countryside. Policy CTY13 permits a building in the countryside

- where it can be visually integrated into the surrounding landscape and sets out criteria regarding the unacceptability of a building. The planning authority's objection under this policy relates to criteria (b), (c) and (f). Criterion (b) is where the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. Criterion (c) is where it relies on the use of new landscaping for integration and criterion (f) is where it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.
10. The subject building is positioned in a corner of the appeal site abutting a concrete wall which defines the rear boundary of the site and an existing hedgerow which runs along the north-eastern boundary. The other boundaries of the site are defined by concrete walls. The existing vegetative boundary, which is not depicted on the site layout plan, is low lying and provides limited screening for the appeal building and of itself would not provide a suitable degree of enclosure. Nevertheless, criterion (iii) of Policy OS3 also refers to topography as playing a role in absorbing development into the landscape whilst criterion (f) of Policy CTY13 makes reference to landform and natural features providing a backdrop.
 11. The planning authority accepts that the appeal site is located within a natural hollow in the landscape. From its identified critical viewpoint on the brow of a hill on the approach along Ballymaderphy Road from the south east which is approximately 150m from the appeal site, only the roof of the building is discernible. Due to the roadside hedge thereafter, views of the building are restricted until approximately 50m from the site. From this closer perspective, the building is seen in context with the dwelling with little appreciation of the actual separation distance between them. The building is seen against a backdrop of rising ground and a mature clump of vegetation to the east. This combination of natural features provide a sense of enclosure and assist with absorbing the building into the landscape and helps offset the absence of any landscape feature in the foreground. Nonetheless, the proposed semi-mature hedgerow and trees to be planted to the inside of the site boundary block wall as shown on the site layout plan submitted with the appellant's statement of case would add visual relief and improve the integration of the building into the landscape. The building however would not rely primarily on this new landscaping for integration.
 12. The other identified critical viewpoints are from the northwest approach along Ballymaderphy Road. Due to roadside hedges and vegetation, the available close range views towards the appeal site are limited and intermittent. The only sustained available perspectives are approximately between 130m - 200m from the appeal site. From these available mid-range viewpoints, the building is seen in the context of the site boundary hedge in the foreground and the rising ground beyond with prominent farm buildings seen on the ridge line. Though the separation distance of the building from the dwelling is more readily apparent from these perspectives, the prominent farm buildings in the distance are seen between them and ameliorates this disconnection. Notwithstanding the low height of the existing site boundary hedge, it in combination with the rising background terrain provides a sense of enclosure for the appeal building and assists with integrating it into the landscape. I consider that if the stretch of the boundary hedgerow extending beyond the rear of the dwelling was allowed to grow on, the visual integration of the building into the landscape would be improved.

13. The only other available viewpoint is from an elevated section of Balmaderphy Road which provides a limited long range view towards the appeal site from a distance of approximately 400m away. From here, the appeal building does not stand out as being overly prominent or adversely impacting on the visual amenity of the landscape among the myriad of the other built form seen in the same context.
14. I judge that the appeal building when seen from the available viewpoints can be absorbed into the landscape by taking advantage of the existing topography and other natural features including the existing boundary hedgerow. If this hedgerow is allowed to grow on and supplemented and if new additional planting of hedging on the opposite site boundary is established and grown on to a similar height and supplemented with trees, I consider that the proposal would have no adverse impact on the visual amenity and character of the area. Subject to the implementation of such appropriate landscaping conditions, the proposal would accord with criterion (iii) of Policy OS3 and would not offend criteria (b), (c) and (f) of Policy CTY13. The planning authority therefore has not sustained its second reason for refusal under Policy OS3 of PPS8 or its third reason for refusal under Policy CTY13 of PPS21.
15. Since the proposal epitomises an outdoor sport and recreation uses in accordance with PPS8, it represents one of the types of development which in principle is considered to be acceptable in the countryside under Policy CTY1 of PPS21. The planning authority therefore has not sustained its first reason for refusal. As none of the reasons for refusal have been upheld, the appeal succeeds subject to the imposition of appropriate conditions.
16. In order to prevent the shed being used for purposes unconnected with this permission, a condition tying the uses of the shed to equestrian uses is necessary. As the appellant has indicated that the commercial equestrian use might include training and grooming of horses, these activities should be incorporated into the planning authority's suggested draft condition. In the interests of road safety, the visibility splays at the point of access onto Balmaderphy Road as indicated on the site location plan submitted with the planning application should be laid out and cleared before the use of the building commences. The site is approximately level with the road and therefore the proposed condition regarding the gradient of the access is unnecessary. The access point into the shed is already 5m wide and extends back 10m from the road and the suggested condition in respect of this is also unnecessary.
17. To assist with integration, the existing hedgerow which is already in place and established along the north eastern boundary of the site should be retained and supplanted with new planting where necessary. Whilst the appellant submitted a site layout plan with landscaping in his statement of case, this did not allude to this boundary hedgerow. The stretch of the existing hedge to the rear of the dwelling should be allowed to grow on to a height of not less than 2m and maintained thereafter. This could be supplemented with new trees and planting within the site as shown on the appellant's layout drawing. The new planting along the south eastern boundary as shown in the appellant's drawing is necessary and also should be allowed to grow on to a minimum of height of 2m. Conditions to secure these landscaping actions are necessary.

Conditions

- (1) The shed hereby approved shall be used for the purposes of keeping horses including training and grooming of horses and the storage of foodstuffs and other such related items. The shed shall not be used for any other commercial purposes.
- (2) The visibility splays and forward sight distance at the point of access onto Ballymaderphy Road shall be provided in accordance with Drawing 02 date stamped received on 3 February 2017 prior to the commencement of the use hereby permitted.
- (3) The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway before the commencement of the use of the building and shall be retained and kept clear thereafter.
- (4) The existing hedgerow along the north eastern boundary of the appeal site shall be retained. The stretch of this hedge to the rear of the dwelling shall be allowed to grow on to a height of not less than 2 metres and shall be retained thereafter.
- (5) The new planting of hedging and trees along the south eastern boundary as shown in Drawing No. WD01 submitted with the appellant's statement of case shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The landscaping shall be carried out during the first available planting season after the date of this permission. The new hedgerow along the south eastern boundary shall be allowed to grow on to minimum height of 2m and retained thereafter.

Hedging or trees 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 planning authority gives written consent to any variation.

This decision approves the following drawings submitted with the planning application:-

- Drwg. No. 01 – 1:1250 scale Site location plan;
- Drwg No. 02 – 1:100 scale Ground floor layout and elevations and 1:500 scale Site layout plan (except with respect to the concrete block wall along the north eastern boundary of the site); and
- Drwg. No. WD02 1:500 scale Site layout plan with landscaping schedule submitted with the appellant's statement of case.

COMMISSIONER BRIGID McGLINCHEY

List of Documents

Planning Authority:-

C1 Statement of case + Appendices

Appellant:-

A1 Statement of case + Appendices including visual analysis of the surrounding area and Site layout plan with proposed landscaping

A2 Rebuttal + Appendix



Appeal Decision

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Appeal Reference:	2018/A0006
Appeal by:	Mr Mark Cooper
Appeal against:	Refusal of Full Planning Permission
Proposed Development:	Change of house type and amended access in substitution for P/2014/1233/F
Location:	55m NW of 48 (situated between Nos. 50 &54 Tamnaharryhill Road , Mayobridge.
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2017/0743/F
Procedure:	Written representations and accompanied site visit on 2 nd August 2018
Decision by:	Commissioner Helen Fitzsimons on 15th August 2018

Decision

1. The appeal is allowed subject to conditions.

Reasons

2. The main issues in this appeal are whether the proposed development would provide a safe access arrangement onto Tamnaharryhill Road and if it represents an infill opportunity.
3. The appeal site is located outside any settlement limits as designated by the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) the local development plan which operates for the area. BNMAP offers no specific policy or guidance pertinent to the appeal site. Planning Policy Statement 3 'Access Movement and Parking' is a material consideration.
4. Policy AMP 2 of PPS 3 states that planning permission will be granted for a development proposal involving direct access onto a public road where (a) such an access will not prejudice road safety or significantly inconvenience the flow of traffic. .The Council and an objector raised concerns under this requirement.
5. Development Control Advice Note 15 (DCAN 15) 'Vehicular Access Standards' is Supplementary Planning Guidance which sets out the standards for vehicular accesses. The standard x distance for an access carrying up to 60 vehicles per day is 2.4m and this can be achieved at the access to the appeal site. The standards set out in Table B 'Y Distance and Forward Sight Visibility, are based on traffic speeds on the priority road. Transport NI estimate the speeds in both directions on this part of Tamnaharryhill Road to be in the region of 30 miles per hour given its proximity to its junction with the B7; the rising nature of the road;

and the bend in and crest on the road just past No 51 Tamnaharryhill Road . I spent some time at the appeal site prior to the accompanied site visit observing the traffic movements on Tamnaharryhill Road and I agree with Transport NI that traffic speeds are unlikely to exceed 30mph in this location. From my observations the priority road is unlikely to carry more than 3000pd. Given this a 'Y' distance of 70m metres would be required in both directions. Notwithstanding that the Transport NI case officer estimated the distance and forward sight visibility to the right hand side (RHS) emerging to be 25m, at the site visit the Transport NI official measured the distance and forward sight visibility as 58m. Table B of DCAN 15 also provides a lesser requirement in each standard and this is known as the bracketed figure. Note one of Table B states that the values in the square brackets are permitted where visibility standards will not be reduced to such a level that danger is likely to be caused. Given my observations on the nature and of the road and speeds at this location and that the achievable visibility splay to the RHS exceeds the bracketed figure by some 13m I am satisfied that there would be no prejudice to the safety and convenience of road. There is a telegraph pole within the visibility splay and moving it to the rear of the verge, within which it is located, would ensure clear visibility on the RHS emerging.

6. The objector raised the matter of use of existing visibility from adjacent properties and that the appellant has not served notice. The appellant would not be carrying out any works to those existing visibility splays. The matter of visibility standards is to ensure a clear view. It is legitimate to take existing adjacent visibility splays into account in the assessment of a new adjacent access. I am satisfied that the appellant is in control of the land to the front of the appeal site and this sufficient for him to provide adequate visibility in conjunction with the existing clear views either side.
7. The Council's first reason for refusal based on Policy AMP 2 of PPS 3 is not sustained and the objector's concerns are not upheld.
8. Given that I have been able to determine the appeal on the information given by the appellant in writing and by Transport NI at the accompanied site visit the Council's second reason for refusal based on lack of information is not sustained.
9. Policy CTY 8 of PPS 21 'Ribbon Development' states 'planning permission will be refused for a building which creates or adds to a ribbon of development.' 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...' For the purpose of this policy 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.
10. The objector raised the matter of the principle of the proposal as an infill development under Policy CTY 8. The appeal site is a small gap in a continuous and substantial built up frontage, comprising a dwelling at No 50 and a dwelling and garage at No 51 all with frontage to the road, which could accommodate one dwelling. I note that this was also the basis upon which extant planning permission P/2014/0223/F was granted by the Council on 5th August 2016. There is a laneway between the southern boundary of the appeal site and No 50 Tamnaharryhill Road, the objector told me that the Council has been recently rejecting proposals similar to this arrangement because the private roadway represents a break in the

road frontage and that the infill criteria for such sites are not fully met. However, he gave me no documentary evidence in support of his arguments in the form of planning decisions or case officer's reports.

11. The case officer's report for planning application P/2014/0223/F, which I requested from the Council, contains photographs showing a laneway in place on the southern side of the appeal site at the time that application was under consideration and subsequently approved, and therefore there is no change in circumstances regarding the configuration of the built up frontage. Taking account of this; the lack of documentary evidence in support of the objector's arguments; and that an extant planning permission remains in place I am not persuaded that his concerns under Policy CTY 8 of PPS 21 are determining in this appeal.

Conditions

1. Before building works commence on the appeal site visibility splays of 2.4m x 70m to the south and 2.4m x 58m to the north of the junction of the access onto Tamnaharryhill Road shall be laid out and permanently retained and the telegraph pole located within the northern visibility splay shall be relocated to the back of the verge.
2. This permission shall be commenced within five years of the date of this decision.

This decision is based on the following drawings

- 1:1250 scale site location plan;
- 1:500 scale site plan
- 1:100 scale elevational drawing
- 1:100 scale plans and sections; and
- 1:100 scale floor plans

COMMISSIONER HELEN FITZSIMONS

2018/A0006**Attendances**

Planning Authority:-	Mr G Murtagh (Newry Mourne and Down District Council) Mr O Laughlin (Transport NI) Mr J Killen
Appellant:-	Mr K J Sharry (Agent) Mr M Copper(Appellant)
Objector:-	Mr and Mrs Pollard

List of Documents

Planning Authority: -	C1 Written Statement and Appendices
Appellant:-	A1 Written Statement A 2 Comments
Objector:-	Obj 1 Written Statement



Appeal Decision

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Appeal Reference:	2017/A0252
Appeal by:	Stuart Moffett
Appeal against:	Refusal of Full Planning Permission
Proposed Development:	Erection of a Dwelling on a Farm.
Location:	15m west and to the rear of 81 Cloughanramer Road Newry
Planning Authority:	Newry Mourne and Down District Council
Application Reference:	LA07/2017/1175/F
Procedure:	Informal Hearing on 29 th June 2018
Decision by:	Commissioner Helen Fitzsimons on 30 th July 2018

Decision

1. The appeal is allowed subject to conditions.

Reasons

2. The main issues in this appeal are whether the proposed development
 - is acceptable in principle in the countryside;
 - if it would result in ribbon development;
 - if it would have an adverse impact on the visual amenities of the countryside; and
 - whether it would erode rural character.
3. The appeal site is located outside any settlement limit and lies in the countryside as designated by Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) the local development plan which operates for the area. The BNMAP offers no specific policy or guidance pertinent to the proposed development. The Strategic Planning Policy Statement for Northern Ireland (SPPS) retains a number of Planning Policy Statements (PPSs) one of which is PPS 21 'Sustainable Development in the Countryside'
4. 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 and that will contribute to the aims of sustainable development.' One of these is a dwelling on a farm in accordance with Policy CTY 10 of PPS 21. Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where all of three stated criteria can be met. The Council raise objections under criteria (a) that the farm business is currently active and (c) that the new buildings is visually linked or sited to cluster with an established group of buildings on the farm and where practicable access to the new dwelling should be obtained from an existing lane.

5. Footnote 26 of the SPPS states that for its purposes 'agricultural activity' is as defined by Article 4 of the European Council Regulations (EC) No. 1037/2013. At Article 4 (c) (i) agricultural activity means production, rearing or growing agricultural products, including harvesting, milking, breeding animals, and keeping animals for agricultural purposes.
6. The appellant presented me with evidence spanning a number of years which indicates that he grows and harvests silage for sale to other farmers. In order to establish active farming the period referred to in both PPS 21 and the SPPS is described as 'currently active' which to my mind means 'in the here and now'. At my site visit I observed that fields within the farm business, attributed to the appellant, had been recently cut and the Council Official concurred with this. He also said that at that time it would appear that the farm was active. There is nothing to dispute the evidence presented by the appellant or that the land is currently being actively farmed. That being so I must conclude that criterion (a) of Policy CTY 10 of PPS 21 is met.
7. The farm business is registered to the appellant at 79 Cloughanramer Road, a dwelling, and this dwelling is the farm house. Adjacent to this and in the farm yard is a shed which is in use as an impact vehicle recovery business by the appellant. It is the Council's view that this workshop is not a building associated with the farm business and should be discounted. The policy only requires that the new building is visually linked or sited to cluster with an established group of '*buildings on the farm*' it does not specify that they must be in use with the farm business. There is no evidence that the shed has been 'hived off' from the farm and so it is a building on the farm irrespective of what it is being used for. The appeal proposal would be viewed with this building when seen from Cloughanramer Road both at the access to the proposed dwelling and between Nos. 77-81. It is proposed to construct a new access to the proposed dwelling from west of No 77 Cloughanramer Road by upgrading an existing agricultural lane. Criterion (c) of Policy CTY 10 is met.
8. An exception under Policy CTY 8 of PPS 21 'Ribbon Development' states that planning permission will be refused for a building which creates or adds to a ribbon of development. Paragraph 5.33 of Policy CTY 8 says that 'A ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform buildings line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or are visually linked. The council considered that the siting of the proposed new dwelling and its access behind this row of dwellings would extend the ribbon to the east beyond a bend in the road. I accept that there would be a visual linkage between the existing ribbon and the proposed development however, given the set back from the road and that the existing ribbon appears as a linear form of development extending from north to south west of the appeal site I do not consider that the proposed development would add to the existing ribbon of development. The Council has not sustained its second reason for refusal based on Policy CTY 8 of PPS 21.
9. As The proposed development meets the requirements of Policy CTY 10 'Dwellings on Farms' of PPS 21 and does not offend the requirements of Policy CTY 8 'Ribbon Development' it is acceptable in principle in the Countryside and Policy CTY 1 of PPS 21 is also met. The Council has not sustained its first reason for refusal.

10. Policy CTY 13 of PPS 21 'Integration and Design of Buildings in the Countryside' 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 appropriate design. A new building will not be acceptable in seven stated circumstances. The Council raised objections under three of those circumstances (b) that the site lacks long established boundaries; (c) it relies primarily on the use of new landscaping for integration; and (d) the ancillary works do not integrate with their surroundings. Paragraph 5.59 of Policy CTY 13 says that 'the main criteria against which the degree of visual impact will be considered include the location of the site within the landscape, the position of the building within the site and its relationship with surrounding buildings.' Paragraph 5.41 of Policy CTY 10 implicitly acknowledges that the existing farm group or application site may not be well landscaped and allows for the presence of existing vegetation to be discounted when making a visual assessment of proposals. When seen from the Council's identified vantage point the proposed development would be viewed with the existing buildings on the farm with little appreciation of any physical separation that may exist between the proposed new dwelling and the shed. I accept that new planting would be required on the undefined north and western boundaries of the appeal site and along the access lane to aid with integration. However, given that the thrust of Policy CTY 10 is to group new development with existing groups of buildings I find, on balance, the failure of the appeal proposal to meet those specific requirements of Policy CTY 13 outweighed by the requirements of Policy CTY 10 for dwellings on farms. The Council has not sustained its fourth for refusal based on Policy CTY 13 of PPS 21.
11. Policy CTY 14 'Rural Character' provides for the grant of planning permission for a building in the countryside where it does not cause a detrimental change to, or further erode rural character. A new building will be unacceptable for five stated reasons. The Council raised objections under reason (b) its results in a suburban style build up of development when viewed with existing and approved buildings (d) it creates or adds to a ribbon of development and (e) the impact of ancillary works would damage rural character. As the proposed development is sited to be visually linked to existing buildings on the farm in accordance with the overall thrust of PPS 21 which is to group new buildings with existing development it is not a suburban form of development; I have already found that the proposed development would not result in ribbon; and given my conclusions regarding the need for new planting and that planting would aid integration the impact of the ancillary works would not appear suburban in form. The proposed development would not fail any of the requirements of Policy CTY 14 of PPS 21 and the Council has not sustained its fifth reason for refusal.

Conditions

1. Before building works commence the visibility splays identified on drawing numbered 1661-15/01 shall be laid out at the junction of the access lane with Cloughanramer Road and permanently retained.

2. No development shall take place until there has been submitted to and approved by the planning authority a landscaping scheme showing trees and hedgerows to be provided along the northern and western boundaries of the site and the location, numbers, species and sizes of trees and shrubs to be planted within the site. 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 planning authority gives written consent to any variation.

3. The development shall be begun before the expiration of five years from the date of this permission.

This decision is based on the 1:1250 scale site location plan and the drawing numbered Job No 1661-15/01

COMMISSIONER HELEN FITZSIMONS

2017/A0252**List of Documents**

Planning Authority: -
Post Hearing
Appellant:-
Post Hearing

C1 Written Statement
C2 Planning History
A1 Written Statement and Appendices
A2 Letter of Offer; Certificates and Newspaper Article

Attendances

Planning Authority:-
Appellant:-

Mr G Murtagh
Mr T Wilson (Tom Wilson Planning)
Mr M Byrne (Building Design)



Appeal Decision

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Appeal Reference:	2018/A0003
Appeal by:	Mr Philip Prescott
Appeal against:	Refusal of Full Planning Permission
Proposed Development:	Retention of replacement domestic garage
Location:	32 Dunnaval Road, Kilkeel
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2017/1663/F
Procedure:	Written Representations with Commissioner's site visit on 26 th July 2018
Decision by:	Commissioner Helen Fitzsimons on 9th August 2018

Decision

1. The appeal is allowed subject to conditions.

Reasons

2. The main issues in this appeal are whether the proposed development would;
 - be sympathetic with the built form and appearance of the existing property;
 - detract from the character and appearance of the surrounding area;
 - have an adverse impact on residential amenity; and
 - be unsympathetic to the character of the Mournes Area of Outstanding Natural Beauty (AONB).
3. The appeal site is located within the settlement limits of Dunnaval/Ballyardle by virtue of Designation DB01 in the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) the local development plan which operates for the area. BNMAP offers no specific policy or guidance pertinent to the appeal site. The first Addendum to Planning Policy Statement 7 'Quality Residential Environments' entitled 'Residential Extensions and Alterations' states that planning permission will be granted for a proposal to extend or alter a residential property where all of four stated criteria are met. The Council raised objections under criteria (a) that the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area; and (b) that the proposal does not unduly affect the privacy or amenity of neighbouring residents
4. Paragraph A11 of the Addendum says that garages and other associated outbuildings should be subordinate in scale and similar in style to the existing property, taking account of materials, the local character and the level of visibility of

the building from surrounding views. The appeal site comprises the appellant's single storey dwelling sited in a generously sized plot that sits above road level. It is bounded on either side by dwellings and a business park is located immediately opposite. The front elevation of the dwelling faces the road with a 'gazebo' like structure on its western elevation. The garage is sited in the western corner of the plot behind the dwelling. The 'gazebo' like structure and vegetation within the plot serve to limit views of the garage to partially across the frontage of the appeal site. The garage measures 10m x 11.8m and is 6m in height. It is finished in painted render to match the house. From the road, albeit that it is a large structure, because of the limited views it appears subordinate to the main dwelling. It is sympathetic with the built form and appearance of the existing property and it does not detract from the appearance and character of the surrounding area. Criterion (a) of Policy EXT 1 of the first Addendum to PPS 7 is met.

5. The vehicular entrance to the garage is via a large roller shutter door, which is not an uncommon arrangement for modern domestic garages. There is a second 'domestic' door to the garage and this serves an area where there is a fridge/freezer, sink and washing machine; a common utility space arrangement for many households. At my site visit I noted four cars and a van within the garage which belong to the appellant and his family members. There is a mechanic's tool box situated at the rear of the garage, which would be used where an occupier carries out repairs to his own vehicles. The interior of the garage; its outer areas; and around the dwelling show no signs of oil stains, which one might expect from a commercial garage. I was given no evidence by the Council of vehicles calling to the appeal site for car repairs; that the appellant is employed as a mechanic; or any other evidence to persuade me that the garage is being used for commercial purposes. In addition I noted no signage at the property. On the balance of what I observed at my site visit, and in the absence of any other evidence, I am satisfied that the garage is in domestic use, and that any car repairs are on a hobby basis. A planning condition would ensure that this remains the case. Given all of this I am satisfied that there would be no adverse impact on the residential amenities of adjacent occupiers by virtue of commercial car repair activities. Criterion (b) of Policy EXT 1 of the first Addendum to PPS 7 is met.
6. As I have concluded that both criteria (a) and (b) of Policy EXT 1 of the first Addendum to PPS 7 are met the Council has not sustained its first reason for refusal.
7. Policy NH 6 of Planning Policy Statement 2 'Natural Heritage' 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 three stated criteria are met. The Council raised objections under criterion (a) that the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality. The appeal site is located in an urban area within the AONB. It is surrounded by built development and there is little appreciation of the special character and landscape value of the AONB at this location. The addition of the garage on the appeal site does not appear as out of character with its surroundings and consequently is not unsympathetic to the special character of the AONB. The Council has not sustained its second reason for refusal based on Policy NH 6 of PPS 2.

Conditions

1. The garage shall only be used for domestic purposes incidental to the residential use of No. 32 Dunnaval Road.

This decision is based on the 1:1250 scale site location plan; the 1:100 scale elevations drawing and the 1:100 scale proposed floor plan and elevations.

COMMISSIONER HELEN FITZSIMONS

2018/A0003

List of Documents

Planning Authority: -

C1 Written Statement and Appendices
C2 Comments

Appellant:-
Post Hearing

A1 Written Statement
A2 Comments