

**ITEM NO** 2  
**APPLIC NO** LA07/2015/0144/F Full **DATE VALID** 4/21/15  
**COUNCIL OPINION** REFUSAL  
**APPLICANT** Mr Frank Newell C/O Agent **AGENT** Eres Limited  
 Mourne House  
 41-43 Downshire  
 Road  
 Newry  
 BT34 1EE

**LOCATION** Approximately 130m south/south-west of no 338 Newry Road  
 Kilkeel

**PROPOSAL** Erection of dwelling for guest house accommodation (with demolition of existing dwelling at No. 338 Newry Road) with access via existing laneway to No. 338 Newry Road

REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions		SUP Petitions	
	1	0	0	0	0	0
			Addresses	Signatures	Addresses	Signatures
			0	0	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 paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced has been previously replaced under application P/ 2002/0094/F and should have been demolished.
- 3 The proposal is contrary to Policy TSM3 of Planning Policy Statement 16 - Tourism, because the building has been previously replaced, the redevelopment will not result in significant environmental benefit, the new building would not integrate into the surrounding landscape and would have a visual impact significantly greater than the existing building, and access to the guest house would have an adverse impact on road safety.
- 4 The proposal is contrary to Policy TSM7 of Planning Policy Statement 16 - Tourism, with regard to criteria g (build-up of development), and k, l, m & n (intensification of access onto a protected route with inadequate sight lines available), and therefore would not represent a satisfactory and sustainable form of tourism development.
- 5 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that 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 building to integrate into the landscape, and the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
- 6 The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape, would result in a suburban style build-up of development when viewed with existing and approved buildings, would not respect the traditional pattern of settlement exhibited in that area, and would therefore result in a detrimental change to the rural character of the countryside.
- 7 The proposal is contrary to paragraph 6.187 of the Strategic Planning Policy Statement for Northern Ireland Policy NH6 of the Department's Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the siting and scale of the proposal is inappropriate for the locality and is not sympathetic to the special character of the Mournes AONB.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2015/0144/F

**Date Received:** 21<sup>st</sup> April 2015

**Proposal:** Erection of dwelling for guest house accommodation (with demolition of existing dwelling at No. 338 Newry Road) with access via existing laneway to No. 338 Newry Road

**Location:** Approximately 130m south/south-west of no 338 Newry Road, Kilkeel  
The site is located halfway between Kilkeel and Rostrevor on the main A2 coastal route.

**Site Characteristics & Area Characteristics:**

The site consists of a triangular portion of land set back up a lane containing a derelict dwelling and a large new dwelling and outbuildings, and a section cut out of a larger agricultural field halfway down the lane where the proposed guest house accommodation is to be sited. The land slopes gently from north to south towards the main Newry Road from which the site is accessed. The lane serves a number of other dwellings further north. It has trees along its eastern side which provide screening when approaching from the east. The site for the guest house is currently piled with topsoil from an adjacent development site nearer the road. It is bounded on its north and west sides by a 1 metre high post and wire fence and to the east side by a 1 metre high trimmed hedge. The southern boundary is undefined on the ground. It will be visible from Newry Road to the south and west and from Benagh Road to the south.

The site is located in a rural area halfway between Kilkeel and Rostrevor. It is in an unzoned area outside settlement limits on the Banbridge, Newry and Mourne Area Plan 2015. It is also within the Mournes and Slieve Croob Area of Outstanding Natural Beauty. The A2 Newry Road from which the site is accessed is a Protected Route. This area is part of the coastal plain to the south of the Mourne Mountains. It is mainly agricultural in nature, but also has a substantial number of detached single houses.



Derelict dwelling to be replaced



Site for guest house

### Site History:

- P/1995/0823 - Site for replacement dwelling - Refused 07.02.1996 (on road safety)
- P/1998/0394 - Site for replacement dwelling - Withdrawn 25.09.1998
- P/1999/1549/O - Site for replacement dwelling - Approved 04.04.2000

The above three applications related to the northern of two dwellings on the site of No. 338.

- P/2002/0094/F - Erection of 2 replacement dwellings and garages - Approved 23.10.2003

Only one of these approved dwellings (the southern one) has been built. The northern original house has been demolished. Both the dwellings were to be demolished before construction commenced. The large new dwelling was considered a replacement for the southern original building which still remains and it cannot therefore be replaced again. The building should have been demolished before any work on the new dwelling commenced. This issue will be discussed further below.

- P/2014/0083/F - Erection of dwelling for self-catering tourist accommodation (with demolition of existing dwelling at No. 338 Newry Road and access via existing laneway to No. 338 Newry Road) - Refused 22.07.2014 & dismissed at appeal 03.03.2015

The above application had 10 refusal reasons based on PPS2, PPS3, PPS16 and PPS21. 9 of these reasons were sustained in the PAC decision. At a late stage in the appeal process the agent attempted to change the proposal to a guest house. The Commission issued a finding on 20<sup>th</sup> February 2015 rejecting this change as it was for a different proposal under a different policy test and had not been advertised. The subsequent appeal decision was based on the original proposal for self-catering accommodation. The agent lodged the present application for a guest house after the PAC's decision.

A replacement of the dwelling to the south of the site where the lane meets the road was also approved under the following applications and has been constructed to sub-floor level:

- P/2004/1516/O - Site for replacement dwelling and garage - Approved 13.09.2004

- P/2004/0263/F - Erection of replacement dwelling and garage - Withdrawn 08.11.2005
- P/2007/0398/RM - Erection of replacement dwelling and garage - Approved 10.12.2007

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

- The Regional Development Strategy (2035)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry & Mourne Area Plan 2015
- PPS2 – Natural Heritage
- PPS3 – Access, Movement & Parking
- DCAN15 – Vehicular Access Standards
- PPS16 - Tourism
- PPS21 – Sustainable Development in the Countryside
- Building on Tradition Sustainable Design Guide

### **Consultations:**

TransportNI – Initially responded with no objections (subject to conditions) based on the assumption that this was a valid replacement opportunity with no intensification of use. However, the Council does not consider it a replacement opportunity and even if it was, it is currently derelict and its replacement would cause intensification. Therefore TNI was re-consulted and recommended refusal (as in the previous appeal) as visibility splays of 2.4m x 120m could not be provided.

NI Water – Standard informatives.

NIEA – Standard advice on sewerage & drainage.

Environmental Health – No objections. Consent to Discharge will be required.

### **Objections & Representations:**

The application was advertised in the *Mourne Observer* on 6<sup>th</sup> May 2015 and two neighbouring properties were notified of the proposal on 9<sup>th</sup> June 2015. One objection was received from the owners of the dwelling to the east of the site (No. 336). The issues raised include lack of integration within the AONB, out of keeping with the local settlement pattern, contrary to policy TSM5 of PPS16, building designed as a suburban style dwelling house which will add to build-up, creation of ribbon development, unsafe access arrangements, notice was not properly served on the owners of the laneway, and no significant difference from the previous refused application.

As the proposal has been changed to a guest house, policy TSM5 is no longer relevant and it will instead be assessed against policy TSM3. The other points raised are material considerations. While it may or may not be the case that notice was not properly served by the applicant, the fact that the objectors are aware of the proposal and have written in to object to it demonstrates that they have not been prejudiced and the application can be determined without further investigation of this matter. The matter of ribbon development was set aside by the PAC determination and therefore the Council will not again recommend refusal on this basis. The Council

shares the objector's other concerns (in particular integration, effects on the AONB and road safety) and these are given significant weight in the determination.

### **Consideration and Assessment:**

The proposed dwelling is a bungalow with a converted roofspace, a return to the rear and a small front porch. The walls and coped gables will be finished with natural stone and the roof will be natural slate, the main ridge level being 7.1m. There will be brick arches above the openings. The dwelling will be sited to face onto the laneway to the east and there will be a single garage to the north. There will be four bedrooms, three of which will be ensuite.

The main issues to be considered are the principle of the development, design and integration, impacts on amenity and road safety.

Policy RG4 of the Regional Development Strategy 2035 aims to promote a sustainable approach to the provision of tourism infrastructure. All new or extended infrastructure required to support and enhance the tourist industry needs to be appropriately located and sited with proper regard to tourism benefit and the safeguarding of the natural and built environment on which tourism depends. The site is located in proximity to the Strategic Natural Resource of the Mourne, though no specific justification for the siting has been given. The principle of the proposal and its impact on the environment will be assessed under existing operational policy below.

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 Plan reflects the approach of the RDS in seeking to provide a choice of tourist accommodation whilst balancing this against the need to protect the natural and built environment. There is no specific policy for tourism development. The site is outside settlement limits in a rural area and within the Mourne and Slieve Croob Area of Outstanding Natural Beauty. Development proposals in rural areas will be considered under PPS21. Impact on the AONB will be considered under PPS2.

The principle of development proposals in rural areas must first be assessed against PPS21 – Sustainable Development in the Countryside. Policy CTY1 states that a range of types of development are acceptable in principle in the countryside. This includes replacement dwellings if they are in accordance with Policy CTY3 and tourism development if in accordance with the TOU policies of the Planning Strategy for Rural Northern Ireland. As the TOU policies have now been superseded by the final version of PPS16 – Tourism (published June 2013), the principle of the scheme must be considered under that policy. As there is no significant change to the policy requirements for replacement dwellings 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. The design and integration policies of PPS21 (CTY8, CTY13 and CTY14) will also be considered below.

Dealing first with the issue of the replacement dwelling, the Council contends that the derelict dwelling is not eligible for replacement under policy CTY3. The PAC decision confirmed that it was correct to assess the proposal under policy CTY3, even though the dwelling was to be used for tourist accommodation. Notwithstanding the Commissioner's comment that the structure may offer a replacement opportunity under policy CTY3, the refusal reason based on policy CTY3 was sustained. The derelict dwelling should have been demolished before any other works to implement approval P/2002/0094/F were undertaken. Despite the fact that this was not done and that the one new dwelling constructed was not quite built according to plan, the policy is clear that there is no replacement opportunity under CTY3 where a building is immune from enforcement action as a result of non-compliance with a condition to demolish. Although it is now too late to pursue enforcement action against either the breach of condition or the design changes to the new dwelling, the final sentence on page 16 of PPS21 still rules out replacing the remaining structure. It is absurd to suggest that the present owner should be advantaged by the act of constructing the dwelling in the wrong place to the extent that he could achieve another planning permission on a building that had previously been replaced. Policy CTY3 goes on to regulate the siting of replacement dwellings. It is proposed to replace the building off-site in an area with no obvious visual connection to the building being replaced. No justification has been given for replacing it off-site and doing so is considered detrimental to the local landscape. With regard to the size and design of the new dwelling, it is not dissimilar to the scale of the building being replaced. However, its siting much closer to the road with little natural screening means it would have a visual impact significantly greater than the existing building, contrary to the second bullet point. Finally, as the dwelling is derelict, a replacement dwelling would result in intensification of use of the access which is unsafe as discussed below, so the proposal would prejudice road safety, contrary to the fifth bullet point.

Turning then to the tourism policies of PPS16, Paragraph 5.6 sets out five circumstances where guest houses would be acceptable under this and other current policies. The applicant has argued that this proposal constitutes replacement of a suitable building in the countryside under policy TSM3. This policy does not facilitate off-site replacement of buildings with a guest house as currently proposed and in any case, it has been demonstrated above that the existing building does not meet the principal test for replacement dwellings under policy CTY3 of PPS21. As the equivalent section of the SPPS (paragraph 6.260) does not refer to replacement opportunities, but states only that guest houses may be appropriate if on the periphery of a settlement, the more specific retained policy of PPS16 will be given substantial weight in determining the application in accordance with paragraph 1.12 of the SPPS. With regard to the specific criteria of policy TSM3 it is considered that the building is of permanent construction, of sufficient size, not listed and not vernacular. However, the off-site replacement closer to the road will not result in significant environmental benefit, but a detriment to the landscape of the area through its increased prominence and a build-up of development. The size and scale of the development in its revised siting position would cause it to have a visual impact significantly greater than the existing building. The design has several locally distinctive features. Access arrangements would adversely impact upon road safety as discussed below. The proposal is contrary to at least three of the specific criteria of TSM3, as well as the principle of replacement under CTY3. As the principle of the development has not been established under PPS16 or PPS21, it is also

unacceptable as development in the countryside under policy CTY1 of PPS21 and should be refused on this basis.

Tourism development proposals are also subject to the design and general criteria in policy TSM7:

Design criteria

- (a) there are no particular issues with movement pattern and there are public transport routes running past the entrance to the site.
- (b) the siting and layout of the proposal represent greenfield development and are not a sustainable form of tourism development, however the PAC set aside such concerns in their decision as this type of development is commonly found in the rural area.
- (c) a heavier planting scheme of oak trees and hawthorn hedging is proposed in this application to attempt to screen the new dwelling. New planting will be discussed further under CTY13 below.
- (d) no consideration of the practicality of sustainable drainage systems has been demonstrated. The PAC stated that this was an aspirational requirement and not mandatory.
- (e) the dwelling will provide additional informal surveillance of the shared laneway.
- (f) not applicable as there is no public art in the proposal.

General criteria

- (g) a guest house is not incompatible with any surrounding land uses, though it would result in a build-up of development which would damage the landscape quality and character of the area.
- (h) there should be no adverse impact on residential amenity.
- (i) There should be no adverse effects on natural or built heritage features on the site.
- (j) no mains sewerage is available so a septic tank is proposed. Policy CTY16 of PPS21 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. However, this could be requested through a negative condition 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 could be dealt with by condition, the failure to submit information on sewage treatment would not warrant refusal under CTY16 or TSM7. Standard consultation responses were received from NIEA Water Management Unit, Environmental Health and NI Water.
- (k) access is proposed via a shared laneway from Newry Road. The proposal will cause intensification of use of the shared laneway onto a Protected Route which is contrary to PPS3 policy AMP3 (see below).
- (l) the sight lines proposed at the entrance from the public road are considered insufficient given the speed of traffic on this part of the road. TransportNI would require an improvement to 2.4m x 120m which is not achievable. Therefore the access arrangements would prejudice road safety and inconvenience the flow of traffic.
- (m) additional vehicular traffic generated by the proposal could not safely enter the public road due to the inadequate sight visibility at the junction.

- (n) the proposal does not meet one of the stated exceptions for access onto a protected route in the amended policy AMP3 as it is not a valid replacement opportunity or an acceptable tourism development proposal.
- (o) the proposal does not constrain access to the coastline or tourism assets.

In summary, the proposal remains contrary to criteria g, k, l, m and n and should be refused.

As development in the countryside, the proposal is subject to the design and integration criteria for buildings in the countryside in PPS21.

Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Ribbons can front onto private laneways as in this case. Taken with the dwelling under construction to the south and No. 338 to the north, this proposal between these buildings could create a ribbon and would also form a gap which could be subject to future applications for infill development. The site forms part of an important visual break between the roadside cottage and No. 338. However, in the appeal decision the Commissioner rejected the ribbon development argument as the works undertaken on the roadside site could not yet be described as a building. On this basis, the Council will not recommend refusal on ribbon development in this case.

Policy CTY13 deals with Integration and Design of Buildings in the Countryside. The site is viewed principally from Newry Road to the south and west and from Benagh Road to the south and from the shared laneway which is a public viewpoint. While a degree of backdrop is provided by the trees to the east of the laneway, the building would be a prominent feature in the landscape, particularly from the junction of Benagh Road and Newry Road to the south, contrary to criteria a. It also lacks long established natural boundaries and would rely on new landscaping to all four of its new boundaries, contrary to criteria b and c. Further new planting is proposed along the roadside, but it is noted that this land is not owned by the applicant. The Council shares the PAC's concern that there is no guarantee that this landscaping would be provided, and in any case, it would take some time to mature. The design of the building is not unusual for the area. The PAC agreed that the previous application should be refused under policy CTY13 and there is no significant change in circumstances under this application. It still relies on new landscaping to compensate for its lack of enclosure and undue prominence.

Policy CTY14 seeks to preserve rural character. The proposed building will be unduly prominent in the landscape as discussed above. When read with other nearby existing and approved buildings, it would also result in a suburban style build-up of development. By being located in a greenfield site away from established buildings, it does not respect the desired settlement pattern of clustered farm groups traditionally found in the area. Therefore the proposal is contrary to criteria a, b and c of this policy.

The site is within the Mournes and Slieve Croob Area of Outstanding Natural Beauty, so policy NH6 of PPS2 – Natural Heritage is applicable. The siting and scale of the proposal is not sympathetic to the special character of the Mournes area. It does not form part of an established group of buildings, but would instead appear as a one-off house in the countryside, with all the features of any residential property. This will



add to the impression of build-up in the area and would be detrimental to public views of the Mountains beyond the site. The Commission agreed that this stand-alone development would not be in keeping with the settlement pattern and would be detrimental to the visual qualities and special character of the AONB in this locality. The proposal should be refused on criteria a of this policy.

The access to the site must be considered against the requirements of PPS3 – Access, Movement and Parking and DCAN15 – Vehicular Access Standards. Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access onto a public road, or the intensification of the use of an existing access where such access will not prejudice road safety or traffic flow. 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 2.4m x 70m are proposed in both directions. TransportNI would require an improvement to 2.4m x 120m which is not achievable. Therefore the access arrangements would prejudice road safety and inconvenience the flow of traffic. This was accepted by the Commission under the previous application and the circumstances have not changed as there is no valid replacement opportunity.

Policy AMP3 is also applicable as the access is onto a Protected Route. The proposal does not meet one of the stated exceptions for access onto a protected route in the amended policy AMP3 as it is not a valid replacement opportunity (criteria a) or an acceptable tourism development proposal (criteria d). It should therefore be refused on this basis as previously agreed by the PAC.

In summary, the proposal for a new guest house on a greenfield site is unacceptable in principle under PPS16 and PPS21. The proposed access arrangements are contrary to PPS3. It would have a detrimental impact on the character of the AONB, contrary to PPS2. It would fail to integrate with its surroundings and would cause build up.

**Recommendation:** 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 paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced has been previously replaced under application P/2002/0094/F and should have been demolished.
3. The proposal is contrary to Policy TSM3 of Planning Policy Statement 16 - Tourism, because the building has been previously replaced, the redevelopment

will not result in significant environmental benefit, the new building would not integrate into the surrounding landscape and would have a visual impact significantly greater than the existing building, and access to the guest house would have an adverse impact on road safety.

4. The proposal is contrary to Policy TSM7 of Planning Policy Statement 16 - Tourism, with regard to criteria g (build-up of development), and k, l, m & n (intensification of access onto a protected route with inadequate sight lines available), and therefore would not represent a satisfactory and sustainable form of tourism development.
5. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that 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 building to integrate into the landscape, and the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
6. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape, would result in a suburban style build-up of development when viewed with existing and approved buildings, would not respect the traditional pattern of settlement exhibited in that area, and would therefore result in a detrimental change to the rural character of the countryside.
7. The proposal is contrary to paragraph 6.187 of the Strategic Planning Policy Statement for Northern Ireland Policy NH6 of the Department's Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the siting and scale of the proposal is inappropriate for the locality and is not sympathetic to the special character of the Mourne AONB.
8. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 120 metres cannot be provided in accordance with the standards contained in Development Control Advice Note 15.
9. The proposal is contrary to Planning Policy Statement 3, Access Movement and Parking, Policy AMP3 in that it would, if permitted, result in the intensification of use of an existing access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

- 8 The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 120 metres cannot be provided in accordance with the standards contained in Development Control Advice Note 15.
- 9 The proposal is contrary to Planning Policy Statement 3, Access Movement and Parking, Policy AMP3 in that it would, if permitted, result in the intensification of use of an existing access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.



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## NEWRY, MOURNE & DOWN COUNCIL

Local Planning Office

Monaghan Row,

Newry,

BT35 8DJ,

**Reference:** LA07/2015/0144/F  
**Applicant Name:** Mr Frank Newell  
**Proposal:** Erection of dwelling for guest house accommodation (with demolition of existing dwelling at No. 338 Newry Road) with access via existing laneway to No. 338 Newry Road  
**Site Location:** Approximately 130m south/south-west of no 338 Newry Road Kilkeel

Newry, Mourne & Down Local Planning Office intends to refuse this application on the grounds that:

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 paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced has been previously replaced under application P/ 2002/0094/F and should have been demolished.

3 The proposal is contrary to Policy TSM3 of Planning Policy Statement 16 - Tourism, because the building has been previously replaced, the redevelopment will not result in significant environmental benefit, the new building would not integrate into the surrounding landscape and would have a visual impact significantly greater than the existing building, and access to the guest house would have an adverse impact on road safety.

4 The proposal is contrary to Policy TSM7 of Planning Policy Statement 16 - Tourism, with regard to criteria g (build-up of development), and k, l, m & n (intensification of access onto a protected route with inadequate sight lines available), and therefore would not represent a satisfactory and sustainable form of tourism development.

5 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that 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 building to integrate into the landscape, and the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.

6 The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape, would result in a suburban style build-up of development when viewed with existing and approved buildings, would not respect the traditional pattern of settlement exhibited in that area, and would therefore result in a detrimental change to the rural character of the countryside.

7 The proposal is contrary to paragraph 6.187 of the Strategic Planning Policy Statement for Northern Ireland Policy NH6 of the Department's Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the siting and scale of the proposal is inappropriate for the locality and is not sympathetic to the special character of the Mourne AONB.

8 The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 120 metres cannot be provided in accordance with the standards contained in Development Control Advice Note 15.

9 The proposal is contrary to Planning Policy Statement 3, Access Movement and Parking, Policy AMP3 in that it would, if permitted, result in the intensification of use of an existing access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

**Preliminary Matters: Existing dwelling**

This application site has been subject to a recent appeal Ref: 2014/A0108 (see attached) which stated as follows:

"On 23rd October 2003 the Department granted full planning permission (Ref P/2002/0094/F) for the erection of 2 replacement dwellings and garages on part of the appeal site. Condition 2 of that planning permission required the demolition of the existing buildings which were identified in green on a plan. Only one of those buildings was demolished and only one new dwelling was constructed. The appellant contends that the new dwelling was not constructed as approved and this is apparent on the ground. The Department did not dispute this. **I agree with the appellant that the planning permission has not been implemented and that the structure referred to by the appellant may offer a replacement opportunity under Policy CTY 3.**"

Having examined the Case Officer's report it is clear that the Planning Authority have chosen to ignore this decision. This has previously been confirmed by the Case Officer in an email where he stated "the planning authority disagrees with the rationale behind the commissioner's decision". It is unclear where such a justification arises and it is felt that this approach may be construed as unreasonable if this application is taken to a planning appeal.

The previous application was for self-catering tourist accommodation which differs significantly than this current proposal. The latter application falls within a completely different type of planning criteria which allows for the replacement of an existing rural building with a guest house. This opportunity was not available in the previous application.

**The fact remains that the PAC have determined that the original planning permission was never implemented and therefore a valid replacement opportunity exists on the site.** The Planning Authority's refusal to accept the PAC's findings suggest a direct attempt to frustrate this application in spite of the facts already established on the ground. The existing dwelling on the application site falls to the heart of the proposal and the decision by the PAC should be accepted.

If the Planning Authority feel that construction of a dwelling in the wrong place and with an change in design and orientation reflects commencement of works for an application then this approach should be applied to all other instances of development.

### **Consideration**

The correct assessment of this application is under Policy TSM3 from Planning Policy Statement 16 – Tourism.

Policy TSM is written in a permissive context and states "Planning permission will be **granted** (my emphasis) for a new hotel / guest house / tourist hostel in the countryside in the following circumstances and will be assessed under the specified criteria:

### **Circumstances:**

**(a) The replacement of an existing rural building;**

**(b) A new build proposal on the periphery of a settlement.**

The PAC have already determined that there is an existing building on site which may offer a replacement opportunity and therefore the application should be judged to meet criterion (a) of this policy.

The Policy goes on to say that a proposal to replace an existing building in the countryside with a guest house will be permitted subject to the 8 specific criteria. Therefore (as determined in the case of Lamont V the Department of the Environment (Planning Service) where all of these criteria are met, Planning Permission **will be granted**.

The Planning Authority's refusal reasons related to a number of the listed criteria, namely:

- the building has been previously replaced (this matter has already been addressed),
- the redevelopment will not result in significant environmental benefit,
- the new building would not integrate into the surrounding landscape and would have a visual impact significantly greater than the existing building, and
- access to the guest house would have an adverse impact on road safety.

#### Environmental Benefits

In this instance the existing dwelling is located within the curtilage of another existing dwelling and there may be issue regarding privacy between the two. In addition to this the design of the proposal is of traditional simple rural form and the natural features of the site will assist in any integration. There is a strong natural backdrop of the rising mountain and a dwelling already under construction between the proposed site and the adjacent Newry Road. The existing 2 storey dwelling sits in an elevated position in the landscape and can be seen for a significant distance along the Newry Road. In contrast, the proposed building will only be seen for approximately 50m and will rest in a low elevation, supported with large mature trees and rising backdrop to the rear. The existing dwelling is also in a severely dilapidated state and its replacement with the proposed scheme will help to clean up this sensitive landscape. These changes will represent significant environmental benefits to the locality.



### Visual Impact

It is notable that the refusal reason makes reference to the existing dwelling which is to be replaced, despite the case officer's assertions that it does not provide a replacement opportunity.

The proposed building is smaller in scale than the existing dwelling and the site has sufficient room to accommodate parking and ancillary facilities. The generally flat nature of the site ensures that any works to develop the site would not be classified as significant enough to cause any detrimental impact on the area.

It is felt that this proposal represents an element of "planning gain" in that the impact of the proposed building will be much less than that of the existing two storey dwelling, which sits prominently above the application site. This matter was not assessed in the previous appeal as a replacement opportunity did not form part of the assessment. Yet again this differs from this proposal.

The standard for integration in this immediate vicinity has already been determined by the Department in their approval of the adjacent dwelling (Ref: P/2007/0398/RM) which is currently under construction. It is contended that this proposed site represents a greater standard of integration as it will be set further back from the roadside. It will also be screened by the dwelling under construction and will be sited to cluster with it. The impact on the landscape will therefore be lessened in this regard.

### Access (Planning Policy Statement 3 (PPS 3) Access, Movement and Parking):

The issue of a replacement dwelling was not considered in the previous appeal as it did not form part of the tourism criteria. In this case however the replacement of the existing dwelling is an essential part of the application. If an application does not conflict with Policy AMP 3 the proposal also meets the criteria from Policy AMP 2.

It is felt that this application meets two of the criteria within AMP3 namely criterion (a) & (d) which state:

“Outside Settlement Limits - Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access in the following cases:

**(a) A Replacement Dwelling – where a building to be replaced would meet the criteria for development within a Green Belt or Countryside Policy Area and there is an existing vehicular access onto the Protected Route.**

(b) A Farm Dwelling – where a farm dwelling, including a farm retirement dwelling, would meet the criteria for development within a Green Belt or Countryside Policy Area and access cannot reasonably be obtained from an adjacent minor road.

(c) A Dwelling Serving an Established Commercial or Industrial Enterprise – where a dwelling would meet the criteria for development within a Green Belt or Countryside Policy Area and access cannot reasonably be obtained from an adjacent minor road.

**(d) Other Categories of Development – approval may be justified in particular cases for other developments which would meet the criteria for development within a Green Belt or Countryside Policy Area where access cannot reasonably be obtained from an adjacent minor road.**

The original consultation response from Transport NI had no objections to this proposal and it was only seen as unsatisfactory after a subsequent consultation request from the case officer stating “The Council does not accept that this is a valid replacement opportunity and would therefore expect the full standard to be applied”. This subsequent consultation request did not provide Transport NI with the full facts of the case and indeed it is felt that the information was misleading. There are a number of refusal reasons relating to access issues

and in the very least Transport NI should be asked for their comments on the application, **IF** a replacement opportunity existing on the site.

The Case Officer has made the unfair accusation that “it is absurd to suggest that the present owner should be advantaged by the act of constructing the dwelling in the wrong place to the extent that he could achieve another planning permission on a building that had previously been replaced”. It must be pointed out that our client purchased his existing family home long after this dwelling had been constructed on the site. He was unaware that it had been constructed without the benefit of planning permission.

In light of the above submission and the information previously submitted to the Council I would respectfully request that this application be deferred for further consideration.

Yours Sincerely,

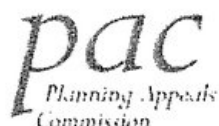


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**Stephen Hughes**

ERES Ltd.

**APPENDIX 1**  
**Planning Appeal Ref: 2014/A0108**



## 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

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**Appeal Reference:** 2014/A0108  
**Appeal by:** Mr Frank Newell against the refusal of full planning permission  
**Development:** Erection of dwelling for self catering tourist accommodation (demolition of existing building).  
**Location:** Approximately 125 metres south of 338 Newry Road, Kilkeel  
**Application Reference:** P/2014/0083/F  
**Procedure:** Written Representations and Accompanied Site Visit on 6<sup>th</sup> February 2015  
**Decision by:** Commissioner Helen Fitzsimons, dated 3<sup>rd</sup> March 2015

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### Decision

1. The appeal is dismissed and full planning permission is refused.

### Reasons

2. The main issues in this appeal are whether :-
  - the proposed development is acceptable in principle in the countryside;
  - a valid replacement opportunity exists on the appeal site
  - the proposal would have an adverse impact on the convenience and safety of road users;
  - the proposed development would be inappropriate in its Area of Outstanding Natural Beauty (AONB) location;
  - whether it would integrate into the countryside; and
  - if it would have an adverse impact on rural quality
3. Policy CTY 1 of Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21) states that there are a range of types of developments 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 replacement dwelling in accordance with Policy CTY 3 'Replacement Dwellings'. Policy CTY 3 states that planning permission will be granted for a replacement dwelling where the buildings to replaced exhibits the essential characteristics of a dwelling. The policy also states that in cases where the original building is retained, it will not be eligible for replacement again and that the policy will not apply to buildings where a building is immune from enforcement action as a result of non-compliance with a condition to demolish.
4. On 23<sup>rd</sup> October 2003 the Department granted full planning permission (Ref P/2002/0094/F) for the erection of 2 replacement dwellings and garages on part of the appeal site. Condition 2 of that planning permission required the demolition of the existing buildings which were identified in green on a plan. Only one of those buildings was demolished and only one new dwelling was constructed. The appellant contends that the new dwelling was not constructed as approved and this is apparent on the ground. The Department did not dispute this. I agree with the appellant that the 2002

2014/A0108

10. Policy CTY 8 of PPS 21 'Ribbon Development' states that planning permission will not be granted for a building which creates or adds to a ribbon of development. Paragraph 5.33 of the policy explains that a 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building 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 they are visually linked. Policy CTY 14 'Rural Character' of the PPS states that a new building will be unacceptable where it creates or adds to a ribbon of development. Immediately south of the appeal site is a dwelling and garage under construction to foundation stage, and these are not buildings. A cluster of farm buildings lies to the north, and is separated from the appeal site by a field. In this context development of the appeal site would not result in ribbon development. The Department and objectors' concerns are not upheld and the Department has not sustained its seventh and ninth reasons for refusal based on Policies CTY 8 and CTY 14.
11. Policy CTY 13 of PPS 21 'Integration and the Design of Buildings in the Countryside' states that a new building will not be acceptable where it fails any of seven criteria. The Department and objectors have concerns under criteria (b) that the site lacks long established boundaries and (c) that it relies primarily on new landscaping or integration. The Department's identified views are from the junction of the Benagh Road with the Newry Road just south of the appeal site and on approach from south west. The northern boundary of the appeal site is formed by a hedge as is its eastern boundary. The southern and western boundaries are undefined. Because of this there is no backdrop or means to absorb the proposed building into the landscape and it would appear as a prominent feature. The appellant has proposed a substantial amount of new planting on the appeal site boundaries and also on land outside the appeal site. Judging from the farm map and associated plans some of this land does not appear to be in his ownership and there is no guarantee that this landscaping will be provided. Even if it were to be provided it would take some time to mature and this is not acceptable. In any event such a degree of new planting is contrary to criterion (c) of the policy. The Department and objectors' concerns are upheld and the Department has sustained its eighth reason for refusal based on Policy CTY 13 of PPS 21.
12. The appeal site lies in the Mourne AONB. Policy NH6 of Planning Policy Statement 2 'Natural Heritage' requires that new development in an AONB is of an appropriate design, size and scale for the locality. The Department's objections are based on the species of planting proposed and the impact build up would have on the AONB. The objectors have also expressed concerns on the character of the AONB. The species of planting proposed has been amended and is acceptable. The Department has described the settlement pattern in this area as one of scattered buildings often associated with farm complexes and I agree. This stand alone development would not be in keeping with the settlement pattern would be detrimental to the visual qualities and special character of the AONB in this locality. The Department and objectors' concerns are upheld and the Department has sustained its fourth reason for refusal grounded in Policy NH6 of PPS 2.
13. The Department's third reason for refusal is based on Policy TSM 7 'Criteria for Tourism Development' of PPS 16 which sets out general criteria all proposals for tourism should meet. The Department's final position is that the proposed development fails criteria (b) and (d) and that the other criteria have been addressed in the reasons for refusal considered above.
14. Criteria (b) of TSM 7 requires that the site layout, building design, associated infrastructure and landscaping arrangements are of high quality in accordance with the Department's published guidance and assist in the promotion of sustainability and biodiversity. The Department holds the view that the layout and design of the building is

Item 34 – request for speaking rights - Councillor Reilly – LA07/2015/0144/F

I would like to request speaking rights regarding this application.

I understand that the agent has also requested speaking rights.

Thanks  
Henry Reilly

**Re: LA07//2015/0144/f**

**Henry Reilly** to Colette.McAteer

Disagree with reference to previous planning applications. - reason - not relevant and should be struck out.

Roads - Disagree with adverse reports on access - should be struck out

Council Policy - Decision is in variance to all council policies on a range of issues that have not been taken into account.

Thanks  
Henry Reilly

<b>ITEM NO</b>	<b>4</b>			
<b>APPLIC NO</b>	LA07/2015/0232/F	Full	<b>DATE VALID</b>	5/8/15
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Francis McGuinness c/o Agent		<b>AGENT</b>	ERES Limited Mourne House 41 - 43 Downshire Road Newry BT34 1EE 028 3025 0135

**LOCATION** 10m west of no.43 Newtown Road  
Killeen  
Newry

**PROPOSAL** Retention of existing shed for installation of timber biomass heating system with associated drying floor for timber biomass and agricultural crops, including ancillary plant machinery storage area

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

- 1 The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21 (PPS 21, Sustainable Development in the Countryside), in that there are no overriding reasons why this development is essential in this rural location.
- 2 The proposal is contrary to Strategic Planning Policy Statement and Policy CTY 11 of Planning Policy Statement 21 in that:
  - the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations;
  - the farm business is not currently active and established;
  - the character and scale of the development is not appropriate to its location
  - it has not been demonstrated that there are no suitable existing buildings on the holding that can be used or that there are no sites available at another group of buildings on the holding before considering this alternative site for the location of the farm diversification proposal
  - the development, if permitted, will have an adverse impact on the natural heritage);
  - it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal. and the development would not visually integrate into the local landscape.
- 3 The proposal is contrary to the Strategic Planning Policy Statement and Policy NH 6 of the Planning Policy Statement 2, in that the site lies in the designated Ring of Gullion Area of Outstanding Natural Beauty (AONB) and the development would, if permitted, be detrimental to the environmental quality of the rural area by reason of its scale, size, inappropriate design resulting in a lack of integration and adverse visual impact within an area of designation.
- 4 The proposal is contrary to the Strategic Planning Policy Statement and Policy RE1 of the Planning Policy Statement 18 in that the proposed biomass boiler system (woodchip burner would add to the unacceptable visual impact of the building as raised under Policies CTY 13 and 14). The potential fuel-saving benefits accrued from the proposed renewable energy solutions have not been demonstrated and do not outweigh the requirements of Policies CTY 1 and CTY 11 as well as the visual concerns held under Policies CTY 13 and NH 6 to justify the proposed development.





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2015/0232/F

**Date Received:** 22.04.2015

**Proposal:** Retention of existing shed for installation of timber biomass heating system with associated drying floor for timber biomass and agricultural crops, including ancillary plant machinery storage area

**Location:** 10m west of no.43 Newtown Road, Killeen, Newry

**Site Characteristics & Area Characteristics:**

The application site is located 3.3 miles SW of Newry within the countryside, situated between the A1 and Newtown Road. Land comprises of an enclosed yard comprising of hard standing with a large building to the SW portion of the site (concrete block and clad finish building with 4 roller shutter doors) the entire yard and premises is currently being used for a commercial/ industrial use. Outside the yard and immediately fronting the road is an existing one-and-a-half storey dwelling.

The general area is characterised by a predominantly agricultural landscape with a dispersed residential settlement pattern.

**Site History:**

**Application Site:**

P/2007/1206/F - To the rear and 10m west of no.43 Newtown Road, Newry. Retention of existing shed for agricultural use and retention of existing perimeter fence. Refused 14.09.10. Appeal dismissed 01.09.11 (Application site)

(Proposal is contrary to CTY12 of PPS21 in that it is not necessary for the efficient use of an active and established agricultural holding and CTY13 of PPS21 in that the building is prominent and unable to provide a suitable degree of enclosure to integrate).

P/2006/0120/CA-Rear Of 43 Newtown Road,Killeen,Newry,Armagh,BT35 8RJ, Unauthorised building and concrete standing. Court Action currently being pursued (Application site)

### **Lands Adjacent and N**

P/2015/0221/F - Adjacent and South of No 41 Newtown Road,Killeen,Newry., Erection of Vehicle Maintenance Shed and retention of existing yard for the storage of vehicles. Refused 17.06.16. Application is currently subject to a planning appeal.

(Proposals are contrary to CTY1 of PPS21 no overriding reasons why development is essential in this rural location, not demonstrated that the proposal is sited and designed to integrate sympathetically with the surroundings, contrary to PED2 of PPS4 no exceptional circumstances have been demonstrated to justify relaxation of planning controls in this countryside location, contrary to PED3 of PPS4, contrary to CTY14 of PPS21 building is a prominent feature in the landscape and the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape)

P/2012/0165/F - Adjacent to and 35 metres north-west of no 43 Newtown Road Newry, Retention of yard. Refused 12.09.12 Appeal was withdrawn

P/2011/0094/CA - Adjacent And North Of 43 Newtown Road,Killeen,Newry,Armagh,BT35 8RJ, Unauthorised use of land for mechanical and tyre depot, and parking of lorries and agricultural vehicles. Court Action currently being pursued

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

Banbridge/ Newry and Mourne Area Plan 2015: Site is within and AONB

Policy consideration: Strategic Planning Policy Statement (SPPS), PPS2, PPS3, PPS18, PPS21 and DCAN 15

**PPS3:** Transport NI have raised no concerns

### **PPS21 (CTY1 – Development in the Countryside)**

The policy provides a list of non-residential uses which may be deemed acceptable within the countryside; this includes provision for farm diversification, reuse of an existing building and renewable energy projects in accordance with CTY11, CTY4 and PPS18 respectively. CTY 1 specifically states that other types of development will be permitted where there are overriding reasons as to why the development is essential and could not be located within a settlement.

Given the overall size, scale and prominence of the existing building which has not sited or designed sympathetically to integrate into its surroundings with proposals of this type better suited to an urban location. No overriding reasons have been presented as to why the development is essential at this rural location and could not

be located elsewhere within a settlement. Therefore the development fails to meet CTY1 of PPS21

### **PPS21 (CTY4 – Conversion and Re-use of Buildings)**

There is provision within policy for the conversion and reuse of existing buildings for a variety of non-residential uses which can include renewable energy projects. In this case the building is unlawful and subject to an enforcement investigation (Enforcement Reference P/2006/0120/CA and thus the policy is not applicable in this regard.

### **PPS21 (CTY11 – Farm Diversification)**

Whilst the agent has provided a farm business i.d. to indicate that the applicant is engaged in farming activities. The overall lack of detail provided in the submission of the application including the absence of farm maps as originally requested by letter on the 3<sup>rd</sup> May 2016 makes it difficult to ascertain if proposals are part of a farm diversification scheme. However should proposals be considered as a farm diversification scheme it has not been effectively demonstrated how proposals will be run in conjunction with the agricultural operations of the farm.

Notwithstanding this the existing unauthorised shed is located within a commercial yard. On inspection it is not associated with any other agricultural building or uses at this location operating as a separate entity away from any potential farming activities and is not run alongside any agricultural operations.

CTY 11 has provision for the reuse or adaption of buildings for farm diversification proposals however this is only applicable where there are existing farm buildings. Overall proposals fail to meet policy tests of CTY11

### **PPS21 (CTY13 – Integration and Design)**

Due to the sheer size, height and scale of the existing building (which is considerably larger than most agricultural buildings) the building appears prominent and conspicuous in the local landscape having an adverse visual impact as a consequence.

Although the building is set above the road level it can nevertheless be viewed on approach in either direction of the A1 appearing prominent, the design is inappropriate and misplaced in this rural context. The site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure and will rely on the need for new and substantial landscaping in order to suitably integrate. From the Newtown Road although the building is set back behind an existing residential dwelling this is of no assistance as the building is much larger than this property and will remain prominent at this location thus failing to meet the policy

requirements of CTY13. (See previous planning appeal at this location PAC Reference 2010/A0130)

The existing building is inappropriate and excessive in terms of size and scale for its intended use, thus the retention of it for this purpose will detract from the area and continue to cause an adverse visual impact at this rural location

### **PPS18 (RE1 – Renewable Energy)**

Policy RE1 states that permission will be granted for a development proposal where development will not result in an unacceptable adverse impact on public safety, human health, residential amenity, visual amenity and landscape character, biodiversity etc. Proposals will be expected to be located at, or as close as possible to, the source of the resource needed for that particular technology, unless, in the case of a biomass heating scheme, it can be demonstrated that the benefits of the scheme outweigh the need for transportation and an end user is identified.

The proposal includes a wood-chip burner to be used for the drying of agricultural crops on site. The agent has advised in an email dated 09.06.16 that the biomass heating system will be fuelled from his own agricultural land which is in close proximity of the site with the intention of growing willow crops on lands in ownership between his family. It is unclear from the overall submission the need for the proposed development, why this particular site/building has been identified, what benefit the scheme will have, where the crops to fuel such an enterprise will be obtained, who the end user is and what it is intended for. The lack of information provided fails to support the requirements of RE1.

Furthermore the retention of the building for this use is not appropriate to this location and the visual impact is not acceptable, for the reasons outlined in CTY13. The proposed renewable energy element does not outweigh the requirements of Policies CTY1 and 13 and related 'visual' policies in PPS21 to help justify the retention of this building. The proposal contravenes Policy RE1 by reason of visual impact and no demonstrable need or benefit of the proposal.

### **SPPS and PPS2 (NH6 - AONB)**

Permission for development within an AONB will only be granted where it is an appropriate design, size and scale for the locality and that the additional listed criteria are met. The policy tests within Policies CTY 13 have already assessed but also apply within this AONB location. It is concluded that the proposed facility would not be satisfactorily integrated into the local landscape and would impact adversely on rural character of the area, by reason of its size and scale. It would therefore have a detrimental impact on the scenic quality of the Ring of Gullion AONB.

The proposal is assessed against the additional criteria set out in Policy NH 6, as follows:

a) The scale of the building is in itself is excessive and its size, scale and design is not sympathetic to this location. The building is prominent and open to view from both the Newton Road and A1. The building does not visually link or cluster with any other farm buildings as characterised within the AONB locality.

b) The site does not contain any landscape or man-made features (incl. buildings) of importance to the character, appearance or heritage of the landscape. The site lacks tree cover and effective screening.

c) Whilst the materials and colour are found within the local area. The overall appearance, size, scale and roller shutter doors have an industrial appearance and is not typical of agricultural buildings in the immediate area

The proposal contravenes the SPPS and Policy NH 6 for the reasons given above.

### **Consultations:**

Transport NI (02.09.15) – No objection

Environmental Health (15.09.15) – No objection, condition to be attached to decision notice

DARD and NIEA – Responses outstanding

### **Objections & Representations**

No objections lodged

2 neighbour notification issued

Advertised 11.05.15

### **Consideration and Assessment:**

For the reasons outlined in this report, I find that the proposal does not qualify as an acceptable form of development in the countryside against the requirements set out

in the Strategic Planning Policy Statement, PPS21 (Policies CTY1, 11 and 13), PPS2 (Policy NH6) and PPS18 (RE1) in that sufficient need has not been demonstrated and the retention of the existing building will have an adverse visual impact on the rural character of this AONB

**Recommendation:** Refusal**Refusal Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY 1 of Planning Policy Statement 21 (PPS 21, Sustainable Development in the Countryside), in that there are no overriding reasons why this development is essential in this rural location.
2. The proposal is contrary to Strategic Planning Policy Statement and Policy CTY 11 of Planning Policy Statement 21 in that:
  - the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations;
  - the farm business is not currently active and established;
  - the character and scale of the development is not appropriate to its location
  - it has not been demonstrated that there are no suitable existing buildings on the holding that can be used or that there are no sites available at another group of buildings on the holding before considering this alternative site for the location of the farm diversification proposal
  - the development, if permitted, will have an adverse impact on the natural heritage);
  - it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal.

and the development would not visually integrate into the local landscape.

3. The proposal is contrary to the Strategic Planning Policy Statement and Policy NH 6 of the Planning Policy Statement 2, in that the site lies in the designated Ring of Gullion Area of Outstanding Natural Beauty (AONB) and the development would, if permitted, be detrimental to the environmental quality of the rural area by reason of its scale, size, inappropriate design resulting in a lack of integration and adverse visual impact within an area of designation.
4. The proposal is contrary to the Strategic Planning Policy Statement and Policy RE1 of the Planning Policy Statement 18 in that the proposed biomass boiler system (woodchip burner would add to the unacceptable visual impact of the building as raised under Policies CTY 13 and 14). It has not been demonstrated that there is wider environmental, economic and social benefits for such a proposal, that it is located at, or close to the source of all resources needed for this particular technology, that the benefits of the scheme outweigh the need for transportation and an end user has not been identified.

Furthermore proposals do not outweigh the requirements of Policies CTY 1 and CTY 11 as well as the visual concerns held under Policies CTY 13 and NH 6 to justify the proposed development.

5. Having notified the applicant under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that further details were required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.
6. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
  - the building is a prominent feature in the landscape;
  - the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
  - the building relies primarily on the use of new landscaping for integration;
  - the design of the building is inappropriate and excessive for the site, locality as well as its intended use.and therefore would not visually integrate into the surrounding landscape.

Case Officer:

Authorised Officer:



- 5 Having notified the applicant under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that further details required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.
- 6 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
  - the proposed building is a prominent feature in the landscape;
  - the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
  - the building relies primarily on the use of new landscaping for integration;
  - the design of the proposed building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.



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## NEWRY, MOURNE & DOWN COUNCIL

Local Planning Office

Monaghan Row,

Newry,

BT35 8DJ,

**Reference:** LA07/2015/0232/F

**Applicant Name:** Francis McGuinness

**Proposal:** Retention of existing shed for installation of timber biomass heating system with associated drying floor for timber biomass and agricultural crops, including ancillary plant machinery storage area

**Site Location:** 10m west of no.43 Newtown Road Killeen Newry

Newry, Mourne & Down Local Planning Office intends to refuse this application on the grounds that:

1 The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21 (PPS 21, Sustainable Development in the Countryside), in that there are no overriding reasons why this development is essential in this rural location.

2 The proposal is contrary to Strategic Planning Policy Statement and Policy CTY 11 of Planning Policy Statement 21 in that: - the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations; - the farm business is not currently active and established; - the character and scale of the development is not appropriate to its location - it has not been demonstrated that there are no suitable existing buildings on the holding that can be used or that there are no sites available at another group of buildings on the holding before considering this alternative site for the location of the farm diversification proposal -

the development, if permitted, will have an adverse impact on the natural heritage); - it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal. and the development would not visually integrate into the local landscape.

3 The proposal is contrary to the Strategic Planning Policy Statement and Policy NH 6 of the Planning Policy Statement 2, in that the site lies in the designated Ring of Gullion Area of Outstanding Natural Beauty (AONB) and the development would, if permitted, be detrimental to the environmental quality of the rural area by reason of its scale, size, inappropriate design resulting in a lack of integration and adverse visual impact within an area of designation.

4 The proposal is contrary to the Strategic Planning Policy Statement and Policy RE1 of the Planning Policy Statement 18 in that the proposed biomass boiler system (woodchip burner would add to the unacceptable visual impact of the building as raised under Policies CTY 13 and 14). The potential fuel-saving benefits accrued from the proposed renewable energy solutions have not been demonstrated and do not outweigh the requirements of Policies CTY 1 and CTY 11 as well as the visual concerns held under Policies CTY 13 and NH 6 to justify the proposed development.

5 Having notified the applicant under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that further details required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.

6 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that: - the proposed building is a prominent feature in the landscape; - the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; - the building relies primarily on the use of new landscaping for integration; - the design of the proposed

building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.

### **Preliminary Matters**

NIEA and DAERA were both sent a consultation request for this application on 12th September 2016 with a query regarding “Energy generation & Potential for contamination”. To date no consultation response has been provided from NIEA.

On 9<sup>th</sup> June 2016 an email was sent to the Case Officer with details on the Applicant’s farm Business ID number and Herd Number (602802 and 244337 respectively). This information was not forwarded to DAERA. It is therefore unsurprising that DAERA have stated that the farm business is not active considering the Case Officer did not provide them with the information.

The question must therefore be asked, if all outstanding information for the application has not been received why has this application been taken before this planning committee?

With regards to refusal reason No. 5 it is unclear which information the Planning Authority still require as any information previously requested has been presented in the form of emails to the Case Officer. At this point it is only reasonable to request clarification on the matter.

### **Consideration**

Planning Policy Statement 21: Sustainable Development in the Countryside, (PPS 21), Policy CTY 1 sets out a range of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development and that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. The range of acceptable development includes farm diversification proposals in accordance with Policy CTY 11. Policy CTY 1 goes on to say that there are a range of other types of non-residential development that may be acceptable in principle in the countryside and that proposals for

such development will be considered in accordance with existing published planning policies.

Policy CTY 11 states that planning permission will be granted for a farm diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. Four criteria are listed under Policy CTY 11, namely:

- (a) the farm or forestry business is currently active and established;
- (b) in terms of character and scale it is appropriate to its location;
- (c) it will not have an adverse impact on the natural or built heritage; and
- (d) it will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.

With regards to part (a) it is requested that DAERA is with the correct information to establish that the Applicant's farm has indeed been established for more than 6 years. This consultation represents a significant piece of material consideration for this application. As the applicant does not claim a single farm payment he does not benefit from the provision of official farm maps from DAERA, however during the application process land registry maps were provided to the Case Officer which identified the extent of the holding. To assist in the identification of said lands I also provided a spatial analysis identifying the existing farm network (**Appendix 1**) and how it related to the application site in terms of a transport network. It is therefore confusing to read the Case Officer's Report which states "The overall lack of detail provided in the submission of the application including the absence of farm maps as originally requested by letter on the 3rd May 2016 makes it difficult to ascertain if proposals are part of a farm diversification scheme." In the absence of official DAERA Maps the next obvious provision of land ownership is through land registry details. It is felt that more than sufficient evidence has been provided in this regard.

It is contended that Mr McGuinness will run his biomass business in conjunction with his existing farm business. The policy provides no explanation of the requirement "to be run in conjunction with the agricultural operations on the farm" and could have been clearer. Case

Law determines that any ambiguity in the policy should be interpreted in the applicant's favour. This approach is comparable to planning appeal ref: 2009/E029 (**Appendix 2**) where it was judged that an engineering business which ran beside an existing agricultural business would be ran in conjunction with each other.

In a similar fashion, Mr McGuinness will be able to maximize the potential for his farm business through this diversification project. It is therefore contended that the applicant fulfils the policy headnote of CTY11.

There are no other agricultural buildings on this farm holding, indeed the only buildings on the farm holding are the applicant's own dwelling and garage which is located in front of the application building. Policy CTY11 provides that "Exceptionally, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they are essential for the maintenance of the existing farm enterprise, are clearly unsuitable for adaptation and re-use or cannot be adapted to meeting the requirements of other statutory agencies."

In this case the applicant's own dwelling and garage are clearly unsuitable for adaptation for the proposed use for biomass renewable energy provision.

In terms of character and scale it is felt that this development is entirely appropriate to this location, especially due to the fact that it is located beside a large industrial building. The proposal building is also located behind the applicant's existing dwelling which screens the development from the Newtown Road.

In addition to this the application building is wedged beside the adjoining A1 Dual Carriageway has already changed the character of this area by slicing through the landscape.

The Characteristics of the A1 Newry Bypass Road are that of an open, exposed landscape with elevated buildings seen for considerable distances. It is felt that this building is less

prominent in appearance than most others along this road. The building is in fact significantly screen by the existing banks and mature vegetation along the A1 as evidence in **Appendix 3**.

Policy RE 1 - Renewable Energy Development states *“Development that generates energy from renewable resources will be permitted provided the proposal, and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on:*

- (a) public safety, human health, or residential amenity;*
- (b) visual amenity and landscape character;*
- (c) biodiversity, nature conservation or built heritage interests;*
- (d) local natural resources, such as air quality or water quality; and*
- (e) public access to the countryside.*

*Proposals will be expected to be located at, or as close as possible to, the source of the resource needed for that particular technology, unless, in the case of a Combined Heat and Power scheme or a biomass heating scheme, it can be demonstrated that the benefits of the scheme outweigh the need for transportation and an end user is identified.”*

This proposal will result in the creation of 2 full time jobs. The facility will require daily supervision by one employee while there will also be a need for another person to provide the feedstock to the facility and transport the dried hay. The creation of two full time employment opportunities bolsters the opportunity and efficiency of the existing farm holding through diversification into renewable energy.

As previously stated, Mr McGuinness proposes to use this willow to feed the biomass heating system, which will in turn utilise the heat provided to dry hay for Mr McGuinness and his wider family’s respective farms.

Dry bales are more efficient for feedstock, creating a better milk yield during the winter months.

High quality forage is recognised as an important requirement for maintaining maximum production of cattle, particularly in dairy production. Adequate roughage is needed in diets to provide good rumen function, but as more roughage is fed, the energy density of the diet is reduced. High quality forage allows the animal to consume adequate forage while increasing energy intake to maximise production. The greatest obstacle to producing high quality hay is rapid field curing.

In our climate, good drying conditions are important and difficult to obtain. Adequate periods without rainfall are sporadic and hard to predict. Although processes are available to speed hay drying, they must be used along with good drying weather to be effective. New equipment and processes have been promoted to make better hay, but few have proven to be effective tools.

Although high quality hay production is a challenge in our region, there are practical steps that can help. Using the right process at the right time is important. Conditioning and tedding treatments can speed drying, but such processes also cause loss. Dry matter loss and nutritive changes occur each time a machine passes through the crop reducing the quality of the final product. Although some loss is inevitable, good management can reduce or compensate for these losses to provide the quality forage needed. The benefits received from these treatments or processes must be weighed against the added costs to determine the best procedures for hay making on your farm.

Hay at maximum quality comes from uniformly dry fields at optimal moisture levels. Hay baled too wet is at risk of spoilage by bacterial and fungal growth. The drying process created by our proposed system will help to eliminate any spoilage and ensure a high quality product is available. The sale of this hay to other local farmers will provide much needed added revenue for the existing farm holding while helping meet EU Targets for renewable energy.



The applicant's farm land can be utilised through the planting of willow coppice, which can be harvested on a two year cycle to provide wood chip. Subsequently, the woodchip can be dried in the proposed drying floor and used as fuel for the boiler to provide heat to dry agricultural products from nearby farm businesses. This demonstrates how the proposal will run in conjunction with the agricultural operations on the farms.

The nature of the process along with the subtle mechanics of the boiler system, guarantees there will be minimal noise, smell and pollution to be created from this project. As there are no dwellings in close proximity to the existing structure there will not be any noise or smell nuisance created.

The introduction of a woodchip boiler and drying floor will significantly reduce the outgoing costs of the existing business, through the provision of additional income.

Overall, this proposal represents an opportunity to create a high quality and well-designed biomass heating system within a sensitive landscape backdrop. The proposed additional planting will help to ensure the existing building is integrated into the landscape, providing a planted embankment along the A1 dual carriageway, thereby producing an element of "Planning Gain".

In light of the above submission and the information previously submitted to the Council I would respectfully request that this application be deferred for further consideration.

Yours Sincerely,

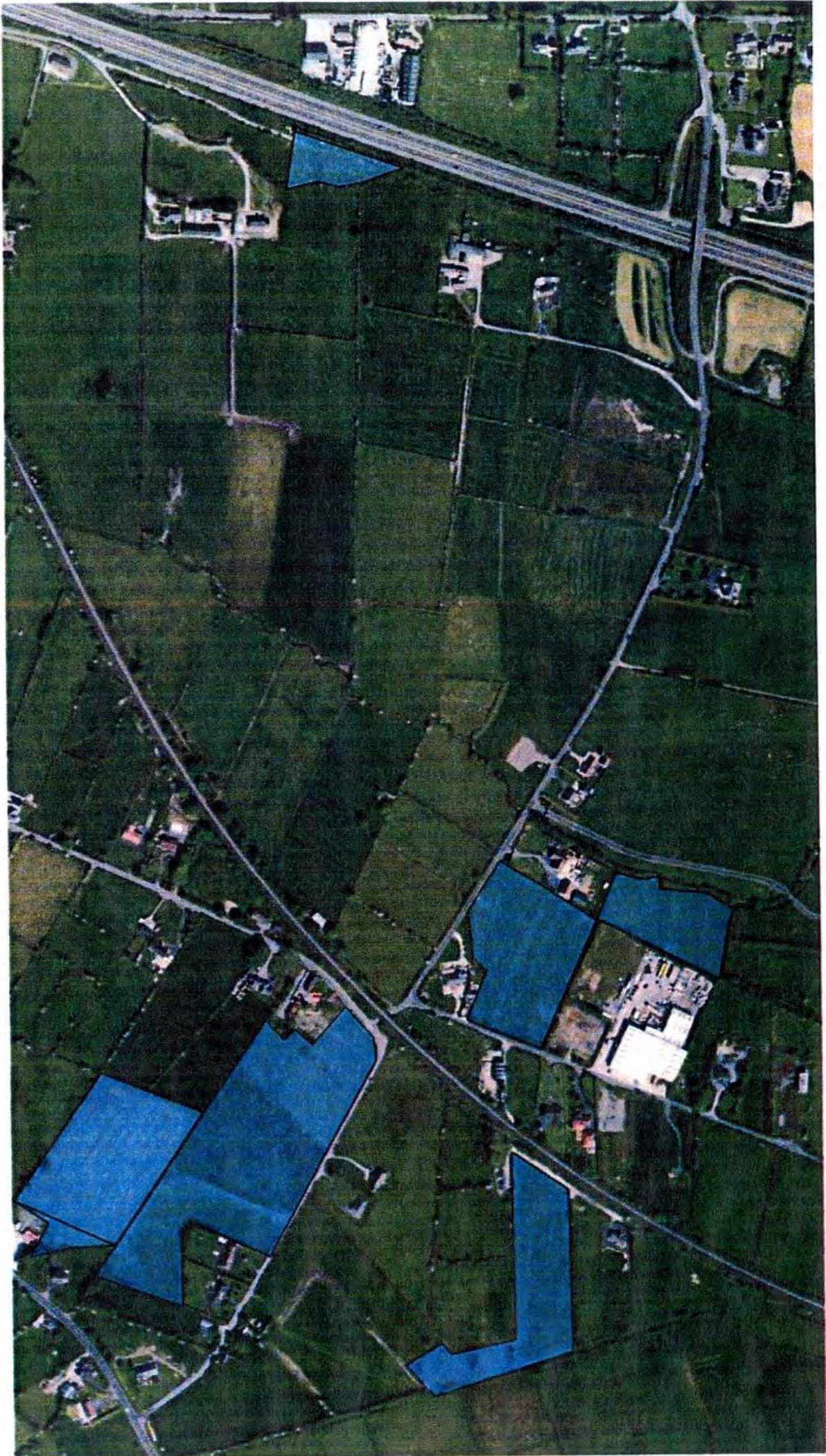


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**Stephen Hughes**

ERES Ltd.

**Appendix 1**  
**Existing Farm Network**





**Appendix 2**

**Planning Appeal Ref: 2009/E029**

# Enforcement 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

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<b>Appeal Reference:</b>	2009/E029
<b>Appeal by:</b>	James Beattie against an Enforcement Notice dated 16 June 2009.
<b>Development:</b>	Unauthorised use of land for an engineering business.
<b>Location:</b>	24 Strahulter Road, Strahulter, Newtownstewart, Strabane.
<b>Application Reference:</b>	EN/2009/0217
<b>Procedure:</b>	Written Representations and Accompanied Site Visit on 24 March 2010.
<b>Decision by:</b>	Commissioner Maire Campbell, dated 31 <sup>st</sup> March 2010.

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## Grounds of Appeal

1. The appeal was made on grounds (a), (e), (f) and (g) as set out in Article 69 (3) of the Planning (Northern Ireland) Order 1991 (the Order). Ground (e) of appeal was withdrawn in the appellant's Statement of Case. There is a deemed planning application by virtue of Article 71(5) of the Order.

## The Notice

2. The Notice identifies an area of land and two of the buildings within that area. These are marked 1 and 2 on the map accompanying the Enforcement Notice. Approval was granted on 6 November 2009, Departmental reference J/2009/0362/F for use of an existing farm building for the storage, packing and distribution of potatoes and vegetables as a farm diversification project. The Department confirmed that its objection was confined to the use of building 1 for an engineering business and stated that the Notice should be corrected at 3, to refer, not to the land, but to building 1. This correction would not result in prejudice to the appellant and accordingly I will make it under Article 70(2) of the Order.

## Reasoning

### Ground (a) and the deemed planning application

3. The notice site is within the rural area and the Department indicated that the development satisfied many of the criteria set out in policy CTY 11 - Farm Diversification of draft Planning Policy Statement 21: Sustainable Development in

the Countryside. The only requirement of CTY 11 not satisfied is that the diversification scheme is "to be run in conjunction with the agricultural operations on the farm.". Accordingly this is the sole issue in relation to ground (a) and the deemed planning application.

4. The following facts about the existing operation are pertinent to the consideration of the issue in the appeal.
  - The appellant is a farmer and farm maps indicate that he owns, or part owns, more than 40 hectares in the vicinity of the Notice site. He farms barley and potatoes and 20+ acres is let in conacre annually. He has a herd of 10 cattle. He owns all buildings on the Notice site.
  - The buildings, which include a dwelling, identified on the Notice map, were derelict in the 1980s; they had been used by army/police. Building 1 was used by the appellant as a silage pit until 1991 and then was vacant until 2002 when the appellant repaired it (new corrugated iron sheeting and re-plastering of walls) and used it to store potatoes and carry out repairs, welding and general maintenance to farm machinery and equipment. The engineering work was to equipment on his own farm and those of his neighbours. He was assisted by two friends who live locally (within one mile).
  - The appellant now works at farming, including fruit and vegetables on his own farm and at the packaging and distribution business carried out in building 2.
  - The appellant's two friends continued with the engineering business in building 1. They now use the name Pro Fab and have two employees. The appellant has an oral agreement with Pro Fab about the use of building 1 and Pro Fab pays a weekly rent. The range of the work and the clientele now carried out by Pro Fab has not changed since the business was started by the appellant. Pro-Fab does work for the appellant and for this he pays the going rate.
  - The appellant stated that if Pro Fab ceased work, he would continue the engineering business, retaining his original customers (within a distance of 5-10 miles).
5. These facts were not disputed by the Department. It was argued that the development was not sustainable, a requirement of CTY 11 as the appellant only received a rental income and Pro Fab is now in control of the engineering business. The Department stated that the purpose of farm diversification was to provide additional income for farmers but schemes must be sustainable. The policy provided no explanation of the requirement "to be run in conjunction with the agricultural operations on the farm" and could have been clearer. Any ambiguity in the policy should be interpreted in the appellant's favour.

6. In considering whether the Department's objection to the existing development in building 1 should be sustained, I consider the following points to be significant:-
- the Department accepted that the character and scale of the operation is appropriate to this rural location and that it was otherwise acceptable. This concession addresses the impact on landscape, natural heritage and residential amenity.
  - The appellant is a farmer, agricultural operations are continuing on the larger holding and there is no impediment to agricultural operations continuing on the Notice site, including in the remaining buildings on the Notice site.
  - The operation is largely confined within a building formerly used for agriculture.
  - The engineering operation was started by the appellant, is now run by local people and provides service for local farmers.
7. Taking account of the combination of these factors, I conclude that the operation in building 1 represents a sustainable farm diversification project. I agree with the Department that the policy requirement of "run in conjunction with agricultural operations on the farm" is not clear. The Departmental official was unable to provide any further clarification. I do not consider that this requirement can be read to mean that this farm diversification proposal can only be run by this appellant or that he must have a degree of control higher than that indicated in this appeal.
8. Policy CTY 11 would have applied to the approval granted in building 2 on the Notice site. I note that this approval, though granted to the appellant, does not in any way restrict the management or control of the project. The Department correctly accepted that building 2 and the business in it could be sold by the appellant at any time. The appellant's rebuttal provided an example of a similarly unrestricted approval, Departmental reference K/2008/1055/F dated 9 July 2009. These examples of Departmental approvals reinforce my conclusions in paragraph 7 above.
9. I have not been persuaded by the Department that the sustainability of the present operation, which is otherwise acceptable under CTY 11, would be enhanced if the appellant were dealing with it. I find the Departmental objection not to be sustained and conclude that the existing operation on the Notice site satisfies the requirements of policy CTY 11 of draft PPS 21.
10. To ensure that the operation continues to provide an ongoing rental income for this appellant and in connection with this farm, I consider that he should retain ownership of building 1. A replacement dwelling is under construction just south of the existing building on the Notice site; accordingly I agree with the Department that working hours should be restricted as suggested during oral



proceedings. The Department also suggested that the storage of material should be confined to the Notice site. The site is generally open to Strahulter Road and this is an identified scenic route close to the Owenkillev River leading into the Sperrins. The use of the entire Notice site, which includes the site of the dwelling, for the open storage of engineering materials would be visually unacceptable. I note that the appellant stated that the business does not require outside storage. I conclude that any open storage should be confined to the area in the immediate vicinity of building 1, now cross-hatched on the map which accompanied the Enforcement Notice and which is attached to this decision.

11. The appeal under ground (a) succeeds and the deemed planning application is granted subject to conditions.

#### **Decision**

- (i) Part 3 of the Notice is corrected by deleting "the land" and inserting "building number 1 (as indicated on the attached map)".
- (ii) The appeal on ground (a) succeeds and the deemed planning application is granted subject to the following conditions.
  1. Building 1 (as indicated on the attached map) shall be retained in the same ownership as the farm holding considered in this appeal.
  2. No activity associated with the engineering business in building 1 shall be carried out outside the hours of 0800 - 2000 Monday to Friday and 0800-1700 Saturday or at any time on a Sunday.
  3. Open storage associated with the business in building 1 shall be confined to the area cross-hatched on the attached map.
- (iii) The Enforcement Notice is quashed.

#### **COMMISSIONER MAIRE CAMPBELL**

**Appendix 3**

**View from A1 Dual Carriageway**



<b>ITEM NO</b>	<b>6</b>				
<b>APPLIC NO</b>	LA07/2015/0495/F		Full	<b>DATE VALID</b>	6/18/15
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>				
<b>APPLICANT</b>	Ms. Denise Kelly 10 Elmgrove Rathfriland Road Newry BT34 1GZ			<b>AGENT</b>	
					NA
<b>LOCATION</b>	Opposite and 100metres east of No 12 Commons Hall Road Newry Co Down				
<b>PROPOSAL</b>	Erection of new equine shed for the storage of fodder (hay) and for horses to shelter in				
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>	
	0	0		0	0
				<b>Addresses Signatures</b>	<b>Addresses Signatures</b>
				0 0	0 0



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2015/0495/F

**Date Received:** 18<sup>th</sup> June 2015

**Proposal:** Erection of new equine shed for the storage of fodder (hay) and for horses to shelter in

**Location:** Opposite and 100metres east of No 12 Commons Hall Road, Newry, Co Down

**Site Characteristics & Area Characteristics:**

The site consists of agricultural land which is unimproved and somewhat overgrown with a variety of species including hawthorn, blackthorn, whins and ferns. It is currently used for grazing horses. The site is divided into two main fields with a boggy area in the centre. There is also an outcrop of rock between here and the road. It is proposed to site the shed behind this area which is also densely vegetated. The site is accessed from Commons Hall Road to the west. The road sits higher than the site, though there is a strong hedgerow which prevents views across the site.



The site is located in a rural area just to the east of Newry City. It is unzoned land outside settlement limits on the Banbridge, Newry and Mourne Area Plan 2015. The area is part of an elevated plateau above the Newry River corridor. The dominant land use in the area is agriculture, though there are also a number of dispersed single houses, particularly opposite the proposed site. There is a surface water flood zone across the centre of the site.

**Site History:**

Two previous applications for stables on the site were returned as invalid because the correct fee had not been paid.

**Planning Policies & Material Considerations:**

- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry & Mourne Area Plan 2015
- PPS3 – Access, Movement & Parking
- DCAN15 – Vehicular Access Standards
- PPS8 – Open Space, Sport and Outdoor Recreation
- PPS21 – Sustainable Development in the Countryside

**Consultations:**

TransportNI – After a series of amendments to the access location and visibility splays, TransportNI now have no objections, subject to standard conditions.

DARD – Business number allocated less than 6 years ago but does not claim SFP (as it is equine based).

NIEA – Standard advice on sewerage & drainage.

Environmental Health – No objections.

Loughs Agency – No objections

Rivers Agency – No objections. Surface water issues can be dealt with by applicant.

**Objections & Representations**

The original application for an agricultural shed was advertised in local newspapers on 10<sup>th</sup> July 2015 and the three dwellings opposite were notified of the proposal on 27<sup>th</sup> August 2015. The proposal was amended to an equine shed in 2016. The new description was re-advertised on 19<sup>th</sup> February 2016 and neighbours were notified on 5<sup>th</sup> February 2016. No third party objections or representations were received.

**Consideration and Assessment:**

The proposed shed is a monopitch steel framed structure with a smooth sand/cement finish to the lower walls and dark green corrugated metal cladding above and to the roof. It will measure 14.5m x 7.5m and 5.1m to the highest part of the roof. There will be a sliding door in each gable. An access lane will be created from Commons Hall Road. The main issues to be considered are the principle of the development, design and integration, impacts on amenity and road safety.

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.

PPS21 Policy CTY1 states that a range of types of development are acceptable in principle in the countryside. This includes outdoor sport and recreational uses if in accordance with PPS8. The SPPS aims to facilitate appropriate outdoor recreational activities in the countryside that do not negatively impact on the amenity of existing residents (paragraph 6.201). This proposal would meet this requirement given its nature and distance from existing houses. As paragraph 6.212 of the SPPS is generally less prescriptive than the specific policy for outdoor recreation in the countryside in PPS8 (OS3), the retained policy of OS3 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS. The proposal complies with the seven specified criteria as follows:

- (i) There will be no adverse impact on archaeology, built heritage or nature conservation interests.
- (ii) The site cannot be described as high quality agricultural land given the presence of rock outcrops and vegetation. Its present equine use will continue.
- (iii) The relatively small shed will be readily absorbed into the local landscape as the existing topography and vegetation will fully screen it from public viewpoints on Commons Hall Road. It will not harm the visual amenity or rural character of the area and to this extent complies with the integration tests of policies CTY13 and CTY14 of PPS21.
- (iv) The proposal would not harm the amenity of neighbours across the road as they are over 70 metres from the site and there are no particular noise generating activities. There is sufficient separation distance for any odour nuisance. Environmental Health has no objections.
- (v) There are no public safety issues associated with equine use and it is compatible with other countryside uses including agriculture.
- (vi) The design of the building is typical of a modern rural shed and the monopitch roof ensures that the structure will remain low and limits its visual impact, as does the green cladding. The new access will have a traditional field gate and the stone laneway will not be fenced which will preserve the rural feel of the area.
- (vii) The shed is on a single level with level access so that it can be accessed by people with disabilities if required.
- (viii) It is expected that an additional 1 vehicle per day will attend the site when the shed is erected. 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. TransportNI required a new vehicular access and visibility splays of 2.0m x 45m to accommodate the proposed vehicular movements. This has been shown on the amended drawing 02 REV 4 received 15<sup>th</sup> June 2016

and is now acceptable, subject to conditions regarding its provision prior to commencement and the access gradient. Vehicles will be able to park and turn within the site. There is an issue with surface water to the east of the proposed shed which will be pointed out to the applicant on the decision. Provided this is done, Rivers Agency has no concerns regarding drainage.

As the proposal complies with the relevant criteria and will not harm amenity or road safety, approval is recommended. A condition should be imposed removing permitted development rights for further buildings at this location to ensure that the Council can control any future development of the site.

**Recommendation:** Approval

**Conditions:**

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

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

2. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with the approved drawing No. 02 REV 4, 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. The gradient of the access shall not exceed 8% (1 in 12.5) over the first 5m outside the road boundary.

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

3. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and re-enacting that Order, no additional buildings, structures, or enclosures shall be erected without the grant of a separate planning permission from the Council.

Reason: To enable the Council to consider the impact of any extension of the facility on the amenities of the surrounding area.

4. During the first available planting season after creation of the new access from Commons Hall Road, a native species hedge shall be planted in a double staggered row 200mm apart, at 450 mm spacing, 500 mm to the rear of the sight splays along the front boundary of the site. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise.

Reason: To ensure the amenity afforded by existing hedges is maintained.



5. 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.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

<b>ITEM NO</b>	<b>9</b>			
<b>APPLIC NO</b>	LA07/2015/0694/F	Full	<b>DATE VALID</b>	7/28/15
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Turlough Kennedy 103 Clady Road Mowhan Armagh BT60 2HB		<b>AGENT</b>	Martin Bailie 44 Bayan Road Mayobridge Newry BT34 2HS 30351910
<b>LOCATION</b>	Dairy Lane Newtownhamilton (100m south east of junction with Coiners Loanan)			
<b>PROPOSAL</b>	Proposed dwelling and garage			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
  1. the proposed building would be a prominent feature in the landscape;
  2. the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building of this size to integrate into the landscape.



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

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2015/0694/F**

**Date Received: July 21<sup>st</sup> 2015**

**Proposal: Proposed dwelling and garage**

**Location:** Dairy Lane, Newtownhamilton (100m south east of junction with Coiners Loanan)

**Site Characteristics & Area Characteristics:**

The site is located on the southern side of Dairy Lane, a very minor rural road located approximately a mile north east of Newtownhamilton, it is very narrow and in a poor condition, it runs along the top of a ridgeline. The site itself is accessed off a bend in the lane through a southwards running lane, the ground area of the site is very uneven and it is rough grazing land with reeds indicating that the soil is waterlogged. The rear portion of the site rises up forming a backdrop to the rest of the site.





The surrounding area is strongly rural in character; it is flat resulting in dwellings being visible in the area. There is a large wind turbine located to the south west of the site that is prominent in the locality and a high voltage overhead line passes to the north of the site. There are no trees in the immediate area, the field boundaries are marked with hedges and there are isolated groups of bushes in the fields themselves, this means that the area is open and exposed to view especially when viewed from Aghincurk Road to the north which is quite heavily trafficked. .



**Site History:**

The site was the subject of a previous application for Outline Permission, P/2006/0586/O this was refused by the then Planning Authority on October 15<sup>th</sup> 2009 on grounds of lack of integration. A subsequent appeal, 2009/A0230, was upheld by the PAC on July 23<sup>rd</sup> 2010, this imposed a ridge height condition of 5.5 metres on the dwelling.

**Planning Policies & Material Considerations:**

Strategic Planning Policy Statement

Banbridge/Newry and Mourne Area Plan 2015

Planning Policy Statement 21 Sustainable Development in the Countryside

**Consultations:**

**Environmental Health** No objections

**Transport NI** No objections.

**Objections & Representations**

No dwellings lie within 90 metres of the site and therefore no notification letters were issued. To date no representations have been received on the application.

**Consideration and Assessment:**

The SPPS provides a framework for the creation of new Local Development Plans by the Councils; in relation to dwellings in the countryside it largely restates the existing policies.

The Plan includes the site as being in the rural area, no designations apply to it.

The original application on this site was first received prior to the introduction of Planning Policy Statement 14, the appeal judgement was issued on July 23<sup>rd</sup> 2010, this means that the current application was received before the expiry of the five year

period from this date. Therefore there is a commitment to approving a dwelling on this site regardless of the provisions of Policy CTY 1.

The appeal judgement specified that the dwelling should have a ridge height no greater than 5.5 metres above finished floor level; the submitted design is of a one and a half storey structure with a ridge height of 7.3 metres above FFL. The issue of the visual impact of a dwelling was a key issue at the appeal, the Commissioner's report referred to the need for "*careful control over siting and levels,*" in my opinion the submitted dwelling is too substantial in scale for this area

An amended scheme was requested from the agent on May 19<sup>th</sup> following an internal discussion, the agent replied on May 26<sup>th</sup> stating that they considered, in the light of the PAC's judgement, that the chosen location was the most suitable on the site and that a dwelling with a reduced ridge level of 6.6 metres would be acceptable. A further set of amended plans were received on September 1<sup>st</sup>. However the design of the dwelling is still one and a half storey and would appear very prominent in the area with its massing and form adding to its prominence, I consider that the proposed dwelling is still not acceptable in this location.

**Recommendation:**

As the site lacks sufficient boundaries to accommodate a dwelling of this size the proposal is contrary to Policy CTY 13 and refusal is recommended.

**Refusal Reasons/ Conditions:**

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

1. the proposed building would be a prominent feature in the landscape;
2. the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building of this size to integrate into the landscape.

Case Officer

Authorised Officer

**JOB REF 2241**

20/09/2016

## STATEMENT OF CASE

**PROPOSED DWELLING & GARAGE AT DIARY LANE,  
NEWTOWNHAMILTON ( 100M SE OF JUNCTION WITH COINERS  
LOANAN ) FOR MR TURLOUGH KENNEDY YOUR REF LA07/2015/0694/F**

The site under consideration was originally turned down by Planning on 15<sup>th</sup> October 2009 but this decision was subsequently overturned by the Planning Appeals Commission on 27<sup>th</sup> July 2010. The PAC at this stage added a height restriction of 5.5m and a condition that the dwelling be located in the south western half of the site. At the time of the Appeal my client was just pleased to receive an approval for Planning in principal and no further thought was given to the siting or ridge height conditions.

Upon returning from England my clients daughter expressed an interest in developing the site and in the design brief provided by her and her fiancé they outlined their desire for a one and a half storey dwelling. Initially we thought that this would not be possible until we all visited the site and noted that there was a large variance in the levels of the site within the siting condition area.

On that basis I carried out an initial site survey and discovered that there was a natural hollow within the site. I advised my client that in principal Planning could not object to a 5.5m high dwelling on the **highest** part of the site so there was the opportunity to apply for a higher dwelling on the **lowest** portion of the site.

As this seemed a perfectly logical approach a Full Planning application was lodged so that Planning could assess our proposal in relation to the **new information** provided without being restricted by the conditions imposed within the Planning Appeals Decision. I advised my client that at this stage Planning would in all likelihood refer to the PAC conditions as their original opinion to refuse the site had been overturned.

**As expected** Plannings initial response was that we had to reduce the height of the proposed dwelling. There was some scope to do this the height was reduced from the

original of 7.5m to circa 6.6m. At the same time we requested a meeting with the Case officer to explain the logic behind our proposal. At the meeting the Case Officer was very helpful and we agreed to provide a detailed topographical survey of the site and to provide site section showing a 5.5m dwelling on the highest portion of the site in relation to our proposed dwelling on the lowest portion of the site.

This information was then considered by Planning and we were advised that our proposed dwelling was still unacceptable but that a 6m high dwelling would be acceptable as opposed to our 6.6m high dwelling.

At this point my client and I decided to ask for the application to be taken to the Planning Committee meeting. 4 copies of the amended drawings were submitted to Planning for substitution for those originally considered by Planning and for tabling here today at the Planning Committee Meeting. I have noted that at Committee meetings Planning table the original drawings applied for as opposed to drawings under consideration during negotiations.

I would like the Planning Committee to consider the information provided in support of this application and if need be to visit the site. The site is located on a minor rural road and has no critical viewpoints apart from a short stretch of the road on which the site is located. Every house in the countryside has this type of critical viewpoint either through the formation of a new access or if the dwelling can be viewed from the public road. The site is so isolated that it could only be possibly seen from another side road around over a mile away.

Planning have made the decision that a 6m high dwelling would be acceptable and yet we are here today to discuss a ridge height increase of **600mm**. As part of Plannings presentation I would ask the Case Officer to show the Committee how much this is. The terms prominence and integration are used by Planning but I would argue that a 6.0m high or 6.6m high dwelling on this particular site would have the same impact and that anyone not specifically involved in this industry would not know the difference. In reality a member of the public traversing Diary Lane would probably remark "There's a new house" as opposed to "There's a new 6.6m high house on that site, a 6.0m house would not have been as prominent and would have integrated better."

Should the Committee not be satisfied with the information we have provided today then I wish to formally request that they visit site to familiarise themselves with the area, the site, the lack of critical viewpoints and other approved dwellings they will pass on the way to the site.



<b>ITEM NO</b>	<b>11</b>				
<b>APPLIC NO</b>	LA07/2015/0704/O	Outline	<b>DATE VALID</b>	7/29/15	
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>				
<b>APPLICANT</b>	Damien Murphy 21 Ryan Road Mayobridge	<b>AGENT</b>	Cole Partnership 12A Duke Street Warrenpoint BT34 3JY NA		
<b>LOCATION</b>	170m South west of No 111 Newry Road Mayobridge				
<b>PROPOSAL</b>	Site for dwelling on farm				
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>	
	0	0		0	0
			<b>Addresses</b>	<b>Signatures</b>	<b>Addresses</b>
			0	0	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 it has not been demonstrated that other development opportunities have not been sold off from the farm holding within 10 years of the date of the application.
- 2 The proposal is contrary to Planning Policy Statement 3, Access Movement and Parking, Policy AMP3 in that it would, if permitted, result in the intensification of use of an existing access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.
- 3 Having notified the applicant under Article 4 (2) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that information on the status of other development opportunities is required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2015/0704/O

**Date Received:** 29<sup>th</sup> July 2015

**Proposal:** Site for dwelling on farm

**Location:** 170m South west of No 111 Newry Road, Mayobridge.  
The site is located 1 mile west of Mayobridge.

**Site Characteristics & Area Characteristics:**

The site consists of three agricultural fields and a run-down farmyard. It is accessed via a laneway from Newry Road to the north and a bridge over a small stream which forms the northern boundary of the site. The site is well enclosed by mature trees including ash, sycamore and hawthorn. There is one existing agricultural shed at the western end of the site (used for animal housing) and further structures including a former dwelling with no roof and another shed where the roof has caved in. As these structures still display the basic characteristics of buildings, the holding can be considered to have a group of buildings for the purposes of policy CTY10.



The site is located approximately 1 mile west of Mayobridge on the main road to Newry (the B8 Protected Route). 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 three archaeological monuments surrounding the site: DOW047:071, DOW047:072 and DOW047:073.

### Site History:

There have been no previous planning applications on the site. An application (P/1981/0465) for a site for a bungalow to the north of the existing farm group was refused on 8<sup>th</sup> September 1981 due to the access being onto a Main Traffic Route. There is no record of previous applications based on the agricultural business ID submitted with this application, though there were two other development opportunities approved on the holding during 2013:

- P/1982/013102/RM – Erection of Housing Development comprising 60 No. dwellings adjacent to Derryleckagh House, Hilltown Road, Derryleckagh, Newry – Approved 3<sup>rd</sup> May 2013
- P/2013/0538/O – Site for replacement dwelling opposite No. 77 Newry Road, Mayobridge – Approved 29<sup>th</sup> October 2013

Information on the status of these development opportunities was requested on 10<sup>th</sup> June 2016, but to date no information has been returned by the agent.

### Planning Policies & Material Considerations:

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

### Consultations:

TransportNI – Provided the proposal is considered an exception to the Protected Routes policy, approve subject to access with visibility splays of 2.4m x 120m being shown in detail at reserved matters stage.

NI Water – Standard informatives.

NIEA – No archaeological objections provided the dwelling is sited in the area shaded green; Standard advice on sewerage & drainage.

Environmental Health – No objections. Consent to Discharge will be required.

Rivers Agency – No objections. Standard informatives regarding nearby watercourse.

DARD – 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 21<sup>st</sup> August 2015. Two neighbouring dwellings were notified on 15<sup>th</sup> February 2016. 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. DARD 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. There were two other development opportunities approved on the holding during 2013 (P/1982/013102/RM and P/2013/0538/O). Information on the status of these development opportunities was requested under the provisions of Article 4 (2) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 on 10<sup>th</sup> June 2016 (with a reply deadline of 24<sup>th</sup> June), but to date no information has been returned by the agent. It has not been demonstrated that no development opportunities have been sold off the farm holding during the relevant period and the application cannot continue to be held pending receipt of further information. It should be refused on criteria (b), and also lack of information.

**Criteria (c)** requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm. As stated above, this farm is considered to have an existing group of buildings here, despite the fact that some are somewhat derelict. A new dwelling in the area shaded green would visually link with them and access is obtained via the existing farm lane. Therefore criteria (c) is 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 site's set-back from the road behind several banks of trees means that a dwelling of modest scale (max. 6m ridge height) would not be unduly prominent in the landscape. The retention of the existing trees should be conditioned if the scheme is approved, along with the provision of new landscaping to define the curtilage. A dwelling would benefit from the backdrop of further trees to the rear and its visual linkage with the established group of farm buildings.

Turning then to rural character, a dwelling of the scale suggested above 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. It is not on the road frontage, so there is no issue of ribbon development. The proposal is in keeping with the requirements of policy CTY14.

### 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 2.4m x 120m are required in both directions. TransportNI is content with the proposal subject to a condition requiring the access improvements to be detailed in the reserved matters submission.

The B8 from which the site is accessed is a Protected Route. Policy AMP3 of PPS3 (as amended by Annex 1 of PPS21) restricts the proliferation of new accesses onto Protected Routes. A new access for a farm dwelling (or intensification of use of an existing access) onto a Protected Route will only be permitted where it meets all the criteria set out in policy CTY10 and access cannot reasonably be obtained from an adjacent minor road. As this proposal does not meet all the criteria of Policy CTY10, it is contrary to policy AMP3 and should be refused. If information was supplied to address the CTY10 issue, the AMP3 reason would be overcome.

### 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 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. Standard

consultation responses were received from NIEA Water Management Unit, Environmental Health and NI Water.

**ARCHAEOLOGY**

There are three archaeological monuments surrounding the site: DOW047:071, DOW047:072 and DOW047:073. NIEA Monuments Unit was consulted and has no archaeological objection to the proposal under PPS6 provided the dwelling is sited in the area shaded green on the site location map.

**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 it has not been demonstrated that other development opportunities have not been sold off from the farm holding within 10 years of the date of the application.
2. The proposal is contrary to Planning Policy Statement 3, Access Movement and Parking, Policy AMP3 in that it would, if permitted, result in the intensification of use of an existing access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.
3. Having notified the applicant under Article 4 (2) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that information on the status of other development opportunities is required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

<b>ITEM NO</b>	<b>12</b>				
<b>APPLIC NO</b>	LA07/2015/0776/F	Full	<b>DATE VALID</b>	8/18/15	
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>				
<b>APPLICANT</b>	Mr John McBride 55 Oldtown Road Annalong BT34 4TU	<b>AGENT</b>	Brian Payne Architects Ltd 7 College Avenue Bangor BT20 6HJ NA		
<b>LOCATION</b>	To the rear of 83 & 85 Kilkeel Road Annalong BT34 4TJ				
<b>PROPOSAL</b>	Construction of 1 no. 2-storey dwelling with associated landscaping and car parking (revised description)				
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>	
	11	0		0	0
				<b>Addresses Signatures</b>	
				0	0 0 0



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2015/0776/F

**Date Received:** 18<sup>th</sup> September 2015

**Proposal:** Construction of 1 no. 2-storey dwelling with associated landscaping and car parking

**Location:** To the rear of 83 & 85 Kilkeel Road, Annalong, BT34 4TJ

**Site Characteristics & Area Characteristics:**

The site is currently vacant and in an unkempt state adjacent to no.89 Kilkeel Road. It is surrounded by residential properties on all sides including those currently under construction within the new Thorn Hill development. It has a slightly uneven topography and contains a number of whin bushes and other overgrown vegetation. Its boundaries consist of a 1.8m high rendered wall which steps down over the course of the north western boundary with no.27 The Hawthorns; overgrown vegetation, a wall approximately 1.6-1.8m high along the north eastern perimeter; a timber fence approximately 1.8m and the gable end of an outbuilding along the south eastern border and the gable wall of 89 Kilkeel Road, an outbuilding and overgrown vegetation covering natural stone wall (approx. 2m high) along the south western border.

The surrounding housing pattern is predominantly 2-storey semi-detached with no.89 Kilkeel Road being the only detached property within the immediate vicinity – the others located across the Kilkeel Road south east of the site. There is a mixture of house styles within the locality both new and old however the finishes are mainly rendered. The site accesses onto a protected route and a right of way (as highlighted in green on the site location map) joins the site with the public road.

**Site History:**

On site there is previous planning history including:

P/2008/1268/F – Erection of 2 no. 2-storey dwellings at lands to the rear of 83 and 85 Kilkeel Road, Annalong – **Approval**



P/2013/0236/F – Erection of 2 no. 2-storey dwellings (semi-detached) for private dwelling - at lands to the rear of 83 and 85 Kilkeel Road, Annalong – **Refusal** – contrary to PPS 7 on the grounds of its inappropriate scale, proportions, massing and appearance of the buildings on the character and topography of the site as well as having a detrimental impact on the amenities of nearby residents. It was also refused under DES 2 as it would be out of scale and unsympathetic with adjacent buildings within The Close by reason of its size and form and; contrary to PPS 1 as it would harm the living conditions of residents in no. 20 The Hawthorns by reason of overlooking and a consequent lack of privacy.

Land immediately adjacent to the site/north east:

P/2004/1559/F - Erection of 8 No dwellings on existing approved housing development with minor amendment to previously approved road layout - Opposite 29 Moneydarragh Road and to the rear of 89 Kilkeel Road, Annalong – approval 17/01/2005

P/2011/0670/F - Proposed residential development consisting of 17 units, comprising of 12 no semi-detached dwellings and 5 no detached dwellings with private parking and landscaped gardens - Lands between 75 & 83 Kilkeel Road, Annalong, BT34 4TJ – approval – 31/10/2013

P/2014/0737/F - Erection of 17 dwellings (5 detached houses and 12 semi-detached houses) - Lands between 75 & 83 Kilkeel Road, Annalong, BT34 4TJ – Approval – 13/01/2015

P/1988/0080 - Site for Housing Development - BETWEEN NO75 AND NO83 KILKEEL ROAD ANNALONG – approval 10/03/1988.

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

SPPS – Strategic Planning Policy Statement

PPS 2 – Natural Heritage – NH 6 – AONBs

PPS 3 – Access, Movement and Parking & supplementary guidance

PPS 7 – Quality Residential Environments

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

PPS 12 – Housing in Settlements

DES 2 (Planning Strategy for Rural Northern Ireland) - Townscape

Banbridge Newry and Mourne Area Plan 2015

Regional Development Strategy 2035

Supplementary guidance:

Creating Places

DCAN 8 – Housing in Existing Urban Areas

#### **Consultations:**

Transport NI – No objections

NIW – standard generic response – informatives attached for the proposed developer/householder/applicant

Environmental Health – no objection subject to connection to main sewerage as proposed.

NIEA – content on the basis that foul sewerage infrastructure from the development connects to the main NIW foul sewer which terminates at Annalong WWTW. They also referred to standing advice for single dwellings.

### **Objections & Representations**

7 neighbours adjacent to the red line of the site notified. Notification letters sent on 3 occasions informing of amended proposal description and amended scheme. Objection letters were however received from 9 addresses (although 1 person has utilised 2 different addresses as they own both). Advertised in 1 local paper 3 times – 24<sup>th</sup> August 2015; 12<sup>th</sup> October 2015 (amended proposal description) and 6<sup>th</sup> June 2016 (amended scheme).

At the time of the site inspection, advertising and neighbour notifications, the properties at Thornhill were unoccupied and still under construction.

Representation concert includes:

From 89 Kilkeel Road (Philip & Carol Shields) in response to 1<sup>st</sup> advertisement/notification:

- referred to previous objections to earlier planning applications
- referred to error in proposal description as single storey dwelling
- vehicular problems for a proposed 4 bedroom house and the associated increased traffic drawn to the site; entering and exiting the property may also necessitate driving over 3<sup>rd</sup> party land
- previously told it would only be a single storey replacement
- sewerage issues
- proposal would change the appearance of 'The Close'
- privacy issues being 'tossed' aside for developers to try and squeeze as much as possible into the site
- believe a single storey replacement is more appropriate for this site

No response in relation to amended proposal description notification and advertisement

From 89 Kilkeel Road in response to 3<sup>rd</sup> Advertisement/3<sup>rd</sup> Neighbour notification - earlier comments repeated.

\*\*\*\*\*

From 83 & 85 Kilkeel Road (Mr Thomas Girvan Norton and Mrs Irene E.Norton) in response to initial neighbour notification/advertisement:

- object to land being excavated to provide services such as water mains, foul sewers, storm drains etc to the proposed house
- modern 2-storey dwelling out of keeping with the original single storey cottage and character of the neighbourhood
- object to the increased traffic via the private lane – safety, parking and maintenance issues – area for parking does not appear large enough
- concern regarding overlooking onto the rear of 83 Kilkeel Road from the proposed dwelling

- concern over increased noise from the proposed dwelling as well as during construction
- increased run-off and the issue of flooding as a result of the proposed hard landscaping
- large vehicles using lane especially during any construction period which would traverse the private lane and cause problems
- referred to error in describing dwelling as single storey when 1<sup>st</sup> floor plans shown
- verbally told that a single storey dwelling would be built on site

No response in relation to amended proposal description notification and advertisement

From 83 & 85 Kilkeel Road in response to the 3<sup>rd</sup> newspaper advertisement and notification - earlier comments repeated.

\*\*\*\*\*

From 93 Kilkeel Road (incorrectly identified on OS maps as 91 Kilkeel Road) (David Archer) in response to 1<sup>st</sup> Advertisement

- refers to error in proposal description
- 50% increase in bedrooms which will lead to similar increase in occupants and vehicles attracted to the site
- Out of character with the neighbourhood – The Close which is within the Mourne AONB guidelines
- Closeness of proposed house to new development at Thornhill
- Overlooking onto Thornhill site and vice versa
- No further planning permission should be given as there is enough development within the area
- Impact on safety and views of the Mourne Mountains

No response to amended proposal description advertisement.

From 93 Kilkeel Road in response to the 3<sup>rd</sup> advertisement and neighbour notification – stated that amended drawing still does not answer previous objections and his objection still stands. The proposal should have been immediately refused as it's too close to the surrounding housing developments.

\*\*\*\*\*

From 164 Head Road, Ballymartin (Aimi Forgan and Christopher McConnell) in relation to site 7 Thornhill (new development under construction) which the writers are moving into. Objections raised as a result of the 3<sup>rd</sup> newspaper advertisement include:

- Loss of light and overshadowing
- Overlooking and loss of privacy
- Revised site plan needed to show proposed dwelling and Thornhill
- Increased noise and disturbance
- Design and appearance too dominant and overbearing in terms of the character and design of the surrounding properties
- Increase the density

- Landscaping out of character – raised garden will cause overlooking and proposed planting will cause problems
- Proposal will significantly affect the value of site 7 in the future.

\*\*\*\*\*

From Gillian Maybin of 8 Killeel Road, Annalong who has purchased site 5 at Thornhill. Her objections were raised as a result of the 3<sup>rd</sup> Newspaper advertisement and include:

- Proximity to boundaries
- Overlooking
- Loss of light
- Overshadowing
- Privacy
- Noise and other disturbance
- Overdevelopment of unsympathetic housing

\*\*\*\*\*

From Lorna Gordon of 86 Killeel Road, Annalong who has purchased site 6 Thornhill. Her objections were raised as a result of the 3<sup>rd</sup> newspaper advertisement and include:

- Lack of daylight, sunlight and privacy
- Increased noise levels
- Denies potential solar energy generation
- Site context not updated to take account of surrounding properties
- Not compatible with the character of the area

\*\*\*\*\*

**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 Annalong. It also lies within a designated Area of Outstanding Natural Beauty (AONB).

Previously a single storey dwelling existed on site. There is a history of planning applications on this site for both approval and refusal of a pair of 2-storey semi-detached dwellings. The approved pair was 8m to the ridge from finished floor level (FFL) with a gable depth of 10m and of simple design. The refused pair were actually 2 ½ storey high with a ridge height of 7.8m from FFL with a gable depth of 11.6m and fussy in design. Permission for the P/2008/1268/F however has lapsed and the developer has applied with this new application for a single dwelling, with a ridge height of 6.6m above FFL within the area of the previous applications. The surrounding context of the site has also changed over the years with what was once an agricultural field immediately to the north east of the site and now a building site with a mixture of detached and semi-detached dwellings under construction.

In September 2015, a new Strategic Planning Policy Statement was produced which applies to the whole of Northern Ireland. It must be taken into account in the preparation of Local Development Plans (LDP) and is material to all decisions on individual planning applications and appeals. However a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. Para 1.12 of SPPS states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS i.e. where there is a change in policy direction, clarification or conflict with the existing policies then the SPPS should be afforded greater weight. 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.

Retained policy includes **PPS 7 policy QD1** which relates to Quality New Residential Development and is more prescriptive. It states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. This policy list 9 criterion to comply with and in relation to this application:

- (a) The development involves a single dwelling with a 6.6m ridge height located towards the south eastern part of the site with a return towards the north west. It displays more of a 1 ½ storey appearance, with vertically emphasised fenestration, rendered walls and a natural slate roof all suitable materials for its locality and Annalong's positioning within the Mourne AONB. The garden area is positioned to the sides and rear and parking to the front/south east of the dwelling. The sites gently sloping topography from the north west to the south east and its surrounding built form context can accommodate this dwelling without creating an adverse impact. Previous planning permission was allowing 2 2-storey semi-detached dwellings on the site whereas this application is for 1 dwelling of a lower ridge height and density. The site is surrounded by residential accommodation on all sides and all 2-storey. I consider that the proposal is acceptable to the character and topography of the site in terms of its layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas.
- (b) The proposal will not impact on any features of archaeological or built heritage. No landscape features need protection.
- (c) There is ample amenity space for this single dwelling including a fairly level grassed area to the rear of site measuring around 135 sq.m which is in excess of the suggested Creating Places standards. A landscaped courtyard is also proposed to the south western side of the dwelling. A landscape plan has been provided showing new shrub and tree planting including a Scots Pine within the north western corner and Himalayan Birch along the boundary with 89 Kilkeel Road and in the south eastern corner of the site. The existing boundary walls are to remain.
- (d) The development is small scale and only involves 1 dwelling. The provision of local neighbourhood facilities is not necessary for this scale of development.

- (e) The proposed site within very close to the local transport network and road networks. Its urban location also supports walking, cycling and those with impaired mobility. No public right of way will be hindered by this proposal on land which previously housed a dwelling. No traffic calming measures are necessary due to the scale of the development.
- (f) There is sufficient space within the proposed curtilage to provide car parking required for a detached 4 bed house set within PPS 3 supplementary guidance - parking standards.
- (g) The site is located not only within an urban area but the settlement of Annalong which also falls within the Mourne AONB. The design, form, materials and detailing are acceptable for this urban location, its siting within the small area known as 'The Close' and the AONB. Although the design may be of a contemporary style in comparison to the older buildings around the site, its form, vertically emphasised windows, rendered walls, banger blue slated roof, PPC aluminium windows and rainwater goods are acceptable to this location.
- (h) The representations made all refer to the impact on privacy, loss of light, overshadowing, noise and other disturbance. With regard to privacy, the 1<sup>st</sup> floor windows (7) are positioned on elevations which benefit from greater separation distances. A lowest distance is between a landing window along the south western elevation which is 8m away from the boundary with 89 Kilkeel Road. A bedroom window to bed 2 has been reduced and positioned 1.8m above floor level. The north eastern elevation has no 1<sup>st</sup> floor windows proposed only 2 velux roof lights which propose to serve a bathroom and ensuite. The ground floor windows will not cause overlooking onto surrounding properties due to the ground difference and boundary walls. Although the separation distances may be less than 10m from the rear of new houses and the common boundary, Creating Places does also state that greater flexibility will generally be appropriate in assessing the separation distance for apartments and infill housing schemes in inner urban locations or other higher density areas. The designer has alleviated overlooking on the elevation closest the boundary by omitting 1<sup>st</sup> floor windows on the elevation and proposing velux windows to serve bathrooms. This is a mitigating measure encouraged by Creating Places (para 7.15) where there are small separation distances.

With regard to the loss of light issue, the proposed dwelling has a ridge height of 6.6m above FFL. The surrounding properties ridge heights would be higher than this and the new dwellings under construction immediately to the north east of the site have ridge heights of 8.5m above FFL. The positioning of the dwellings at site 5 and 7 are sufficiently set back and orientated so as not to be demonstrably affected by the proposed dwelling. The dwelling at site 6 is located 12m from the boundary with the application site in terms of its 2 storey element and 10m from the single storey return. The distance between the 2-storey element of the proposed dwelling and the 2-storey element of site 6 is

16m and 12m from the single storey rear return of site 6 and that of the proposed dwelling. Given that the ridge height of the proposed dwelling is 1.9m lower than sites 5, 6 and 7 and the ground levels being similar at this location, I believe the separation distances, between the properties are acceptable within this urban location and would not pose an adverse threat to these properties in terms of loss of day light and dominance. The proposed location and separation distances are also acceptable in terms of loss of light/overshadowing to the other surrounding properties.

Noise and other disturbance was an issue raised by various representations. It should be noted the application site lies within an urban setting, close to the main arterial route through the town and located close to other residential properties and their associated noises. A single dwelling previously occupied this site and planning approval was also previously granted for 2 dwellings. This application is however for only 1 dwelling. Environmental Health was consulted on regarding the application and they raised no issues providing connection to the public sewerage system. I therefore do not believe that 1 dwelling on this site would provide an unacceptable degree of noise and other disturbance for surrounding properties.

I therefore find the proposal compliant with regard to criterion (g).

- (i) The location of the site and its design is acceptable to meeting criterion (i) in terms of deterring crime and promoting personal safety.

As this proposal involves a new building within an established residential area, the addendum to **PPS 7 – Safeguarding the Character of Established Residential Areas Policy LC1** is also applicable. This policy provides a further 3 criterion to comply with. In relation to the proposal and these criterions:

- (a) The proposed density is not significantly higher than that found in the established residential area – 1 dwelling is proposed on the site and the site is large enough to accommodate a dwelling. The site area measures around 0.05 hectares.
- (b) The proposal is in keeping with the overall character and environmental quality of the established residential area. A dwelling previously occupied this site albeit single storey as highlighted through the representations. The proposed dwelling may look fresher and more modern than surrounding dwellings within the area known as 'The Close' however; its design is still respectful of its urban and AONB setting.
- (c) The dwelling size more than complies with the standards for a 4 bedroom home (7 person) which is 115/120 sq.m as it proposes floor space of 202 sq.m.

### **The SPPS (para 6.137 bullet point 1) and PPS 12 – Policy Control Principle 1 – Increased Housing Density Without Town Cramming.**

Planning policy supports an increase in the density of housing development in town and city centres and other locations which benefit from high accessibility to public transport facilities providing care is taken to ensure that local character,

environmental quality and amenity are not significantly eroded. The proposed density, together with the form, scale, massing and layout of the new development will also need to respect that of adjacent housing and safeguard the privacy of existing residents.

As discussed at length above, the proposal for 1 dwelling on this plot would not be town cramming and the site can accommodate this dwelling without adversely impacting on the surrounding character and amenities of neighbouring properties.

### **PPS 2 – Natural Heritage – NH 6 – Areas of Outstanding Natural Beauty**

This policy allows for new development where it is of an appropriate design, size and scale for the locality and all the following criteria is met:

- (a) *The siting and scale of the proposal is sympathetic to the special character of the AONB in general and of the particular locality:-* Annalong has been designated in the BNMAP as falling within the Mourne AONB however it also has an urban setting with a variety of building styles and uses within its limits. The site also has an urban setting and is surrounded by housing of differing styles. The proposed scheme however is appropriate for its location.
- (b) *It respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape:-* the proposal respects the character and appearance of the surrounding built form and will not negatively impact on the heritage and landscape of this AONB.
- (c) *The proposal respects 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 proposed siting albeit within a designated AONB but also within an urban setting is respectful of the above criteria.

### **DES 2 – Townscape**

This policy requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials. The proposal however is acceptable to this policy and will help improve this derelict plot as well as providing quality accommodation.

### **Recommendation:**

For the reasons outlined above, I believe the proposal for 1 dwelling on this site as detailed in the submitted drawings is acceptable and should be approved.

### **Refusal Reasons/ Conditions:**

Time, landscaping including retention of/improvements if deemed necessary to existing boundary walls to secure privacy and amenity for the proposed occupants and those surrounding the site.



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

## Planning Objection presentation summary. Item 40, agenda for 28th Sept 2016

**D ARCHER** <sup>10</sup> Colette.McAteer

Councillors,

I am speaking on behalf of all objectors, residents of The Close and Thornhill, Annalong.

You have before you all our letters of objection and these should all be taken seriously. For the purposes of this hearing I would like to highlight some of these issues within the 5 minutes allotted to us.

### Access

"The Close" is a small group of houses on a private road off the Newry to Belfast A2 main road.

Given that the Thornhill development access to the A2 is just a few metres north of our entrance, any extra traffic accessing the A2 presents a greater risk to safety, especially of our children many of whose use this road to get to school every day.

It is also worth noting that the last safety pedestrian crossing island in the village, which was opposite "The Close", has now been removed to allow access to Thornhill.

There is now no safe pedestrian crossing island anywhere between Kilkeel and Newcastle!

Many vehicles use "The Close" to conduct self-employed businesses. Any extra vehicles will cause over crowding and a much greater safety risk.

"The Close" is a privately owned road and access for building work and the laying of utilities will not be permitted under any circumstances. The developer is well aware of this as permission has been denied before and will not be forthcoming.

### Inappropriate Development

In recent years we have seen the 30+ houses of The Hawthorns development and the more recent Thornhill development on the last green field site on the A2 within the village.

Your report describes this new application as "urban infill".

This is a completely inappropriate description for the village of Annalong which is within an Area of Outstanding Natural Beauty.

Your own document "Creating Places - achieving quality in residential places" disallows this development in several ways with regard to, among others, privacy, distances from other properties, daylight and access to renewable energy sources.

( more detail regarding specific clauses of this policy will be included in the final presentation)

In summary, this development should be rejected as wholly inappropriate for this site which is a tiny plot of waste land between several properties.

Building will not be possible anyway as access for building and laying utilities will not be permitted on this private roadway.

The development will curtail residents way of life, privacy and there is a real risk of increased danger, especially to the school children, from the extra traffic accessing from the main A2 road.

We look to you, as our elected representatives, to reject this planning application once and for all.

-----

Regards,

David Archer  
[93 Kilkeel Road](#)  
"The Close" Annalong.

<b>ITEM NO</b>	<b>17</b>			
<b>APPLIC NO</b>	LA07/2015/1209/O	Outline	<b>DATE VALID</b>	11/11/15
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Ciaran Hughes 14 Corliss Road	<b>AGENT</b>	MMAS Architects	
	Newry MMAS Archi		Belfast BT13 2DG 07549952004	
<b>LOCATION</b>	Lands at Blackrock Road Crossmaglen immediately North East of farm buildings at the junction of Blackrock Road and Corliss Road Crossmaglen and approximately 250m North East of No.14 Corliss Road Crossmaglen			
<b>PROPOSAL</b>	Proposed Family Dwelling on a farm with associated garage and garden.			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0 0 0

- 1 The proposal is contrary to the Strategic Planning Policy Statement 2015 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 dwelling and garage are 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 2015 and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of a ribbon of development along Blackrock Road.
- 3 The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY13 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the site is unable to provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape.
- 4 The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY13 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the proposed dwelling and garage is not visually linked or sited to cluster with an established group of buildings on a farm and therefore would not visually integrate into the surrounding landscape.
- 5 The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY14 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the dwelling and garage would, if permitted, create a ribbon of development, and would therefore result in a detrimental change to the rural character of the countryside.



Comhairle Ceantair  
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agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2015/1209/O**

**Date Received: 11/11/2015**

**Proposal:** Outline permission for a proposed family dwelling on a farm, with associated garage and garden.

**Location:** The site is located on lands to the northern side of Blackrock Road, Crossmaglen. The site is located in the south western part of Newry, Mourne and Down District Council area. The site is 1.5 miles north-west of the settlement of Crossmaglen, Armagh.

**Site Characteristics & Area Characteristics:**

The site consists of an agricultural field located on the Blackrock Road, Crossmaglen. The site is raised above road level and is an elevated site. The site is bounded by a post-and-wire fence and some whin hedging on the south-western boundary, a post-and-wire fence on the north eastern boundary, whin bushes on the north western boundary and road side hedging on the south-eastern boundary. There are agricultural fields adjacent the site to the north and north-east. Blackrock Road abuts the site to the south east. An agricultural shed and yard abuts the site to the south west. There are no farm buildings within the application site. There are strong short critical views of the site when approaching from the north-east and south-west along Blackrock Road. The main farm complex is situated to the south-west of the site at the junction of Blackrock Road and Corliss Road.

The area is rural in nature and the site is unzoned land outside settlement limits as defined in the Banbridge, Newry and Mourne Area Plan 2015. The area has a dispersed settlement pattern with clustered farm groups. There are no examples of other roadside dwellings located on this part of Blackrock Road.

**Site History:**

The following site history refers to planning history located within the application site.

1. Planning ref: P/2006/0755/F  
Applicant: Ms M Hughes  
Proposal: Erection of dwelling with detached garage  
Decision: Refusal  
Decision date: 06.08.2010
2. Planning ref: P/1998/0003  
Applicant:  
Proposal: Site for dwelling  
Decision: Refusal (Allowed under appeal)  
Decision date: 10.04.1998
3. Planning ref: P/1996/1019  
Applicant:  
Proposal: Site for dwelling  
Decision: Refusal  
Decision date: 25.01.1997

**Planning Policies & Material Considerations:**

The application has been assessed under:

- the Strategic Planning Policy Statement for Northern Ireland (SPPS)
- the Banbridge / Newry & Mourne Area Plan 2015
- PPS3 – Access, Movement and Parking
- PPS21 – Sustainable Development in the Countryside.
- The Building on Tradition Sustainable Design Guide.

**Consultations:**

DARD: DARD advised in a consultation response dated 21/03/2016 that the applicant has a Farm Business ID which has been established for more than 6 years and that Single Farm Payment (SFP) has been claimed in the last 6 years.

Transport NI: have requested the submission of a scale plan and accurate site survey at 1:500 as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1. Visibility splays 2.0 X 60m are required with a forward sight distance of 10m.

Environmental Health: Environmental Health have stated in a consultation response dated 10/03/16 that they have no objections in principle to this proposal.

NI Water: A generic response was received from NI Water. NI Water have no objections in principle to this proposal.

## Objections & Representations

There were no neighbour notifications required in relation to this application. No objections or representations were received.

## Consideration and Assessment:

As there is no significant change to the policy requirements for dwellings on farms following the publication of the SPPS, the retained policy of PPS21 will be given accorded 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. In reference to CTY10, there are three criteria to be fulfilled:

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

DARD advised in a consultation response dated 21/03/2016 that the applicant Mr Ciaran Hughes has a Farm Business ID which has been established for more than 6 years and that Single Farm Payment (SFP) has been claimed in the last 6 years. Claiming SFP is the main means used to determine if the farm is active. Therefore, the DARD consultation response suggests that the farm business is currently active and has been for 6 years or more. Therefore, the application meets criterion (a) of CTY10.

Criterion (b) requires that no dwellings or development opportunities have been sold off from the farm holding since the introduction of draft PPS21 in November 2008. The applicant has provided DARD scheme maps (dated 16/10/14) showing the fields associated with the applicant's farm Business ID in 2015. A planning history check on these fields indicates that the applicant does not have an approval for a dwelling on a farm within the previous 10 years within these fields.

An email was sent to the agent on 04/05/16 requesting confirmation that no dwellings or development opportunities out-with settlement limits have been sold off the farm holding within 10 years of the date of the application. A solicitor's letter, dated 04/05/16, was received confirming that there have been no sites or development opportunities sold or transferred from the farm holding within ten years of the date of the application.

On the basis of the information submitted and a planning history check, it is considered that criterion (b) of CTY10 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, and where practicable, access to the dwelling should be obtained from an existing lane.

The main group of farm buildings is to the south west of the site, located at the junction where Blackrock Road meets Corliss Road. However, the buildings located at the main farm complex are not visually linked with the application site when approaching the application site from the north-east along Blackrock Road, and therefore, any dwelling on this site could not be visually linked with the main farm complex. The application site is approximately 100m from the main farm complex. This distance between the application site and the main farm complex is such that any dwelling on the application site and the main farm complex would read as two distinct entities in the landscape. This separation distance gives a strong impression of the physical separation. Given that the application site is separated from the main farm complex by a field, a yard and a distance of approximately 100m, any dwelling on this site cannot be said to be positioned sensitively to form an integral part of the main farm complex. Further, the lack of visual integration between the application site and the main farm complex when approaching the site from the north-east is reinforced by the elevated level of the intervening field, yard, and intervening vegetation (whin bushes).



Fig 1: Looking south-west along Blackrock Road (application site on right)

There is no visual linkage between the main farm complex and the application site when approaching the site along the Blackrock Road from the south-west as the application site only begins to come into view when past the main farm complex.

Additionally, any dwelling on the application site and the buildings on the main farm complex would read as two distinct entities when travelling south along Corliss Road due to the distance between the application site and the main farm complex and the screening provided by the intervening whin vegetation.





Fig 2: Looking north east along Blackrock Road from junction (Farm complex on left)

There is a distance of 77m between the isolated agricultural building and the closest buildings within the main farm complex. This isolated agricultural building does not constitute a “group of buildings” on the farm.

The agent has stated that there is an unfinished shed sited adjacent to this existing isolated agricultural building. The agent states that this unfinished agricultural building exists presently as a partially sunken slurry tank. On the date of the site visit, 22nd March 2016, this partially sunken slurry tank was in situ. However, this would not be considered a building by the Planning Authority. The agent states, that the partially sunken slurry tank has “rising” concrete walls. This partially sunken slurry tank did not have any walls constructed above ground on the date of the site visit (22nd March 2016).



Fig 3: Slurry tank and agricultural building located south-west of the application site

Under criterion (c) of CTY10 consideration may be given to an alternative site elsewhere on the farm, provided that there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

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

The agent has stated that there would be health and safety concerns associated with locating a farm dwelling closer to the main farm complex. Advice from Environmental Health recommends that the proposed dwelling is situated a minimum of 75m from farm buildings due to the potential for disturbance from noise, odour and pests. However, this distance is only guidance from Environmental Health, and any dwelling located on a farm can expect some impact from noise and odour etc.

The agent states that the farmer will require land to the east and north for future expansion of the farm complex. A farm dwelling on this land would not hinder the future expansion of the farm business. There has been no evidence submitted to indicate or verify that there are plans to expand the farm business.

There has not been sufficient justification for an alternative site set away from the main farm complex. Any dwelling on the proposed site cannot cluster or be visually linked with an established group of buildings on the farm. Therefore, the proposal does not meet criterion (c) of CTY10.

The proposal has failed on one out of three relevant criteria in policy CTY10, and is therefore unacceptable in principle in the countryside, and is contrary to policy CTY1 and CTY10.

#### Ribbon Development – CTY8

Policy CTY 8 states planning permission will be refused for a building which creates or adds to a ribbon of development. The proposed dwelling and garage would create a ribbon of development when read with the isolated agricultural shed adjacent the application site and the agricultural buildings at the main farm complex. These buildings would share a common road frontage with the proposed farm dwelling and garage. The proposed development is therefore contrary to CTY 8.

#### 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 CTY13 and CTY14 of PPS21.

*CTY13 – Integration and Design of Buildings in the Countryside* has 7 criteria for which to assess if a proposal for a dwelling on a farm is acceptable in relation to integration and design.

Criterion (a) states that a new building will be unacceptable where it is a prominent feature in the landscape. The application site is elevated over 2 metres above the level of the road. Therefore, there would be short strong critical views of any dwelling on the application site when approaching the application site from the south-west and north-east on the Blackrock Road. Due to the elevated position of the site, the lack of a visual backdrop to aid integration and the short strong critical views from the north-east and south-west moving along the Blackrock Road, any dwelling on this site, other than a one-storey dwelling, will be unduly prominent. The impact of

introducing visibility splays and a suitable access point to the site will increase the visual impact of any dwelling on the application site.

The north-east and south-west boundaries are defined predominantly by post-and-wire fencing and do not provide a suitable degree of enclosure for a dwelling to be integrated into the landscape. There are mature whin bushes to the rear of the application site. This vegetation is set back over 70 metres from the public road and these whin bushes are not significantly visible from the public road due to the contours and elevated position of the application site. Therefore, these whin bushes cannot provide a sufficient visual backdrop for a dwelling on this site. The application site reads as an open and exposed site which cannot provide a suitable degree of enclosure or a visual backdrop for a dwelling to integrate into the landscape.

The site cannot provide a suitable degree of enclosure. Even new landscaping would have difficulty integrating a dwelling and garage on this site. The agent states that there are semi-mature trees in the centre of the site. There were no trees in the centre of the site on the date of the site visit.

As discussed above, any dwelling on the proposed site cannot cluster or be visually linked with an established group of buildings on a farm.

In summary, and for the reasons outlined above, the proposal is contrary to criteria (b), and (g) of policy CTY13.

#### Policy CTY 14 – Rural Character

Para 5.80 of Policy CTY14 of PPS 21 states, "...ribbon development is always detrimental to the rural character of an area as it contributes to a localised sense of build-up and fails to respect the traditional settlement pattern of the countryside." The proposed dwelling and garage would create a ribbon of development when read with existing buildings adjacent to the application site. Therefore, the proposal is contrary to criteria (d) of policy CTY14.

#### Sewerage

Policy CTY16 states that, "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."

Environmental Health and NI Water have no objection in principle to this application.

#### Amenity

The proposal will not affect the amenity of any nearby dwellings.

**Recommendation:**

The site is unable to provide a suitable degree of enclosure or a visual backdrop for a dwelling and garage on this site to integrate into the landscape. A dwelling and garage on this site would not be visually linked or sited to cluster with an established group of buildings on a farm. The proposal would cause a detrimental change to the rural character of the area as it would create a ribbon of development. Therefore, the proposal fails to conform with planning policy and for this reason it is recommended to refuse the application.

**Refusal Reasons/ Conditions:**

1. The proposal is contrary to the Strategic Planning Policy Statement 2015 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 dwelling and garage are 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 2015 and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of a ribbon of development along Blackrock Road.
3. The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY13 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the site is unable to provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape.
4. The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY13 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the proposed dwelling and garage is not visually linked or sited to cluster with an established group of buildings on a farm and therefore would not visually integrate into the surrounding landscape.
5. The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY14 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the dwelling and garage would, if permitted, create a ribbon of development, and would therefore result in a detrimental change to the rural character of the countryside.

**Case Officer Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Authorised Officer Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Item 43 – Submission of support

### Planning Committee speaking request - APPLIC NO LA07/2015/1209/O

**Fearghal Murray**  democratic.services

Dear Sir / Madam,

Can I request speaking time for application ref: LA07/2015/1209/O at the forthcoming Planning Committee meeting on 28th September.

Our presentation will be to put forward our justification for our siting choice for the Dwelling on a farm application to councillors, and to demonstrate (via a powerpoint slideshow if possible) adequate screening and integration of the proposed dwelling location.

Regards,

Fearghal Murray  
for and on behalf of MMAS


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**Re: Planning – support from Cllr. Hearty – Item 43 – LA07/2015/1209/0**

**terry hearty**  Colette McAteer

Yes Colette that it as a farmer I want to speak about the danger of farm dwelling placed to close to farm yard dangers of gasses from slurry / the danger of farm animals Bulls don't stop at garden wall /working machinery noise / issues like that children lives cannot be. Put at Risk / farm yards are more dangerous than building sites

**ITEM NO** 19  
**APPLIC NO** LA07/2015/1217/O Outline **DATE VALID** 11/18/15  
**COUNCIL OPINION** REFUSAL  
**APPLICANT** Mr & Mrs Quinn C/O Agent **AGENT** BT Planning & Design 13 Suffolk Drive Belfast BT11 9LZ 07599881653

**LOCATION** Land adjacent to and North East of 20 Crohill Road  
 Cobane  
 Newry.

**PROPOSAL** Site for replacement dwelling and garage (Off-site Replacement due to current proximity to public road.

REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	Addresses	Signatures	Addresses	Signatures
	2	0		0	0	0	0	0
					0	0	0	0

- 1 The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the existing building.
- 2 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building would be a prominent feature in the landscape.
- 3 The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling would, if permitted, be unduly prominent in the landscape and would, if permitted, not respect the traditional pattern of settlement exhibited in that area.





Comhairle Ceantair  
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agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2015/1217/O

**Date Received:** 18/11/2015

**Proposal:**

Site for replacement dwelling and garage (Off-site Replacement due to current proximity to public road).

The applicant seeks outline approval for a dwelling and garage on an alternative site.

**Location:**

Land adjacent to and North East of 20 Crohill Road, Crobane, Newry.

The site is located in a rural area outside of settlement development limits. The Crohill Road is accessed from the B8. The site is approximately 4 miles north-east of Newry and 3.5 miles north-west of Mayobridge.

**Site Characteristics & Area Characteristics:**

The site is accessed from the Crohill Road and contains the existing dwelling and an outbuilding on the roadside at the south-east of the site. The existing dwelling is built in stone and whitewashed to the front. The roof has been laid with corrugated tin. There appears to have been some recent amendments carried out to the property including the addition of a new brown PVC garage door. A stone outbuilding is located to the south of the existing property. The application seeks an alternative location for the replacement dwelling. The proposed access will pass through the site of the existing dwelling, through an agricultural field to another agricultural field which would site the proposed dwelling. This site is currently laid in grass and used for grazing. The boundaries of this site are comprised of a mixture of hedges and trees, except for the northern and southern boundaries. The northern boundary is comprised of a hedge and the southern boundary with 20 Crohill Road is comprised of evergreen hedging approximately 2.5m high. The site is relatively flat although there is a gentle decrease in the gradient from east to west.

The site is located in a rural area outside of settlement limits, as defined in the Banbridge / Newry and Mourne Area Plan 2015. The site is located outside of the Mourne Area of Outstanding Natural Beauty but is in close proximity to the historic monument DOW047:049. The area plan shows that the site is unzoned. Properties along this section of the Crohill Road are typically a mixture of single storey bungalows and dormer bungalows. The area has an undulating landscape.

**Site History:**

The following planning applications have been submitted on this site:

- P/2005/0913/O – Site for replacement dwelling and garage – granted 16/06/2005.
- P/2006/2371/RM – Erection of private dwelling with domestic garage – granted 16/11/2007.

The applications above were granted for a replacement dwelling using the same dwelling as proposed in this application. These planning approvals were never implemented and have now expired.

**Planning Policies & Material Considerations:**

- Regional Development Strategy 2035.
- Banbridge / Newry and Mourne Area Plan 2015.
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- PPS 3 – Access, Movement and Parking.
- DCAN 15 – Vehicular Access Standards.
- PPS 6 – Planning, Archaeology and the Built Heritage.
- PPS21 – Sustainable Development in the Countryside.
- The Building on Tradition Sustainable Design Guide.

**Consultations:**

- Environmental Health – 02/03/2016 – No objections in principle.
- NI Water – 07/03/2016 – Generic response.
- NIEA – 14/04/2016 – Content with the proposal and refers to standing advice.
- Transport NI – 01/04/2016 – No objections in principle.

**Objections & Representations**

This planning application was advertised in the local press on 23/11/2015 and three neighbours were notified by letter. The notification letter sent to 20 Crohill Road was returned to the Council by Royal Mail with the reason 'No such address' however this letter was then resent. One objection to the application was received from 17 Crohill Road as they claim the land to be used to access the alternative site is owned by them and not the applicant. This is a civil, rather than a planning, dispute.

**Consideration and Assessment:**Banbridge / Newry and Mourne Area Plan 2015

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently under the remit of the Banbridge / Newry and Mourne Area Plan 2015 as the new Council has not yet adopted a local development plan. Using the above plan, the site is located outside of settlement limits and is unzoned. There are no specific policies in the plans that are relevant to the determination of the application so the application will be considered under the operational policies of the SPPS and PPS 21.

PPS21 – Sustainable Development in the Countryside

As there is no significant change to the policy requirements for replacement dwellings following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS 21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS. With

regard to PPS 21, a dwelling in the site would not meet the requirements of policy CTY 3 for a replacement dwelling, which therefore makes it unacceptable in principle under policy CTY 1.

Policy CTY 3 requires the building to be replaced to exhibit the essential characteristics of a dwelling and as a minimum to have all structural walls substantially intact. The dwelling to be replaced has all its walls intact and also has a roof meaning the existing dwelling meets this requirement.

Policy CTY 3 states that *'in cases where the original building is retained, it will not be eligible for replacement again. Equally, this policy will not apply to buildings where planning permission has previously been granted for a replacement dwelling and a condition has been imposed restricting the future use of the original building, or where the building is immune from enforcement action as a result of non-compliance with a condition to demolish.'* Previously approval was granted for two planning applications (P2005/0913/O and P/2006/2371/RM) to replace the dwelling that this application is seeking to replace. The previous approvals were never implemented and have now expired which means that this dwelling is eligible for replacement.

Proposals for replacement dwellings also require all of the following criteria to be met:

- Siting:

A replacement dwelling is to be sited within the established curtilage unless the curtilage is too restricted to reasonably accommodate a modest sized dwelling or unless it can be shown that an alternative position would result in demonstrable landscape, heritage, access or amenity benefits. In the description of the proposal, the applicant states *'off-site replacement due to current proximity to public road.'* The applicant's reason for an alternative site is therefore not a valid reason within the context of PPS 21. Following a site inspection, it would however be difficult to argue against an alternative site on the basis that the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling. In this context PPS 21 define curtilage as *'the immediate, usually defined and enclosed area surrounding an existing or former dwelling house.'* It would be difficult to argue for an alternative site as it would result in demonstrable landscape, heritage, access or amenity benefits. The use of an alternative site is therefore met on the basis that current site is too restricted.

- Size:

The new dwelling is to be off an appropriate size to allow it to integrate into the surrounding landscape and it is not to have a visual impact significantly greater than the existing dwelling. In P/2005/0913/O a replacement dwelling was approved in a location further east of the current site and the ridge height was to be less than 6.0m above floor level. The subsequent design in P/2006/2371/RM had a ridge height of 6.0m but this dwelling was proposed on a site which offered better integration. Due to the undulating landscape, the proposed location of the new dwelling would result in a dwelling that has a visual impact significantly greater than the existing dwelling. Therefore the proposed development fails to meet this criteria. As will be discussed the proposed development also fails to meet integration policies.

- Design:

The design of the new dwelling is to be of high quality which is appropriate to its rural setting and is to have regard to local distinctiveness. As this is an outline application design details are not required and would be confirmed through a reserved matters application.

- Services:

There are a number of dwellings nearby with all necessary services and therefore it is anticipated that these can be extended to the site without a significant adverse impact on the environment or character of the locality.

- Access:

The proposed access to the public road must not prejudice road safety or significantly inconvenience the flow of traffic. Transport NI was consulted and in their response dated 01/04/2016 had no objection to the proposed development in principle. The proposed development therefore meets this criteria and Policy AMP 2 of PPS 3.

Overall the proposed replacement dwelling is required to meet the five criteria above. As the proposed dwelling fails the criteria concerned with size, as the dwelling would have a visual impact significantly greater than the existing building, the proposed dwelling fails to meet all five of the required criteria and should be refused.

Policy CTY 13 lists seven criteria where a new building will be unacceptable in terms of integration and design. It is likely that a new building on the proposed site would be a prominent feature in the landscape due to the undulating landscape. Therefore the proposed development fails to meet the requirements of Policy CTY 13.

Policy CTY 14 states 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. A building is deemed unacceptable if it is unduly prominent in the landscape. As discussed above this dwelling would likely be prominent in the surrounding landscape. Policy CTY 14 also states a '*new building will be unacceptable where it does not respect the traditional pattern of settlement exhibited in that area.*' The pattern of development in this section of Crohill Road has dwellings that front onto the road. The proposed dwelling is set back from the road and therefore does not respect the traditional pattern of settlement exhibited in the area. The proposed dwelling fails to meet the requirements of Policy CTY 14.

#### Archaeology

The application site is located within close proximity to the historic monument DOW047:049. The Historic Monuments Unit of NIEA has considered the application and in their response dated 14/03/2016 stated they are content with the proposal.

#### Sewerage

The site can accommodate a septic tank and soak-away – subject to obtaining consent to discharge from NIEA. This requirement to satisfy other legislation will be included as an informative. Standard consultation responses were received from Environmental Health (on 02/03/2016) and NI Water (on 07/03/2016). Their standard informatives will be added.

Amenity

The proposed site of the replacement dwelling will not adversely affect the amenity of any nearby dwellings. The dwelling on land adjacent to the proposed site (no.20) is well screened from the site.

**Recommendation:**

*Refusal*

**Refusal Reasons:**

1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the existing building.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building would be a prominent feature in the landscape.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling would, if permitted, be unduly prominent in the landscape and would, if permitted, not respect the traditional pattern of settlement exhibited in that area.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

<b>ITEM NO</b>	20			
<b>APPLIC NO</b>	LA07/2015/1244/F	Full	<b>DATE VALID</b>	11/25/15
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Barney Mackin 27B Derrycraw Road Four Mile Newry BT34 1RD	<b>AGENT</b>	ERES Limited Mourne House 41-43 Downshire Road Newry BT34 1EE 02830250135	
<b>LOCATION</b>	19.3m North-East of No27B Derrycraw Road Derrycraw Newry Co Down BT34 1RG			
<b>PROPOSAL</b>	Erection of farm dwelling and garage			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0 0 0

- 1 The proposal is contrary to the Strategic Planning Policy Statement 2015 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 farm business is currently active and has been established for at least six years, and the proposed dwelling and garage is 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 2015 and 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 on Derrycraw Road.
- 3 The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY13 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the site is unable to provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape and it relies primarily on the use of new landscaping for integration.
- 4 The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY14 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the dwelling and garage would, if permitted, create a ribbon of development on Derrycraw 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:** LA07/2015/1244/F

**Date Received:** 25/11/15

**Proposal:** Erection of Farm Dwelling and Garage. The proposed dwelling measures 17.5m X 9.2m, with a sunroom to the rear measuring 5m X 5.3m and a porch to the front measuring 3.3m X 1.2m. The dwelling has a ridge height of 6.5m from finished floor level. The domestic garage will measure 7m X 5.2m and will have a ridge height of 4.5m from finished floor level.

**Location:** The site is located on land abutting the northern side of Derrycraw Road and approximately 19 metres north-east of No. 27b Derrycraw Road, Newry, Co. Down. The site is located to the north of Newry City and approximately 1.5 miles north-east of the settlement of Lurganare.

**Site Characteristics & Area Characteristics:**

The site consists of a section of an agricultural field (FSN: 3/078/119/25) located on the Derrycraw Road, Derrycraw, Co. Down. The site rises from the road to the middle of the application site moving in a northerly direction. The northern part of the application site slopes downwards moving north. The application site slopes downwards to the east when moving away from the curtilage of No. 27b Derrycraw Road. The site is bounded by a hedgerow abutting the road on the southern boundary, by a wooden fence on the western boundary abutting the curtilage of No. 27b Derrycraw Road, and by a watercourse on the eastern boundary. The eastern boundary lacks mature boundary vegetation and the north western boundary is undefined.

The western part of the field that contains the application site is bounded to the south by the curtilages of No. 27a and 27b Derrycraw Road, to the north by a watercourse and to the west by a post-and-wire fence which abuts a gravel laneway.

The holding consists of 3 fields. FSN: 3/078/119/24 abutting the application site to the north west, FSN: 3/078/119/25 containing part of the application site and FSN: 3/078/119/26 which lies east of the application site. FSN: 3/078/119/24 is marshy

agricultural land and FSN: 3/078/119/26 is an agricultural field which was ploughed on the date of the site visit (08/04/16). No. 27B Derrycraw Road to the west of the application site is the dwelling house of the applicant. There are no farm buildings on the application site or within the 3 fields which make up the holding.

The area is rural in nature and the site is unzoned land outside settlement limits as defined in the Banbridge, Newry and Mourne Area Plan 2015. The area has a dispersed settlement pattern with clustered farm groups. A group of 6 houses of mixed house types lies adjacent to the junction where the Derrycraw Road meets the Belfast Road.

### **Site History:**

The following site history refers to planning history located within fields identified on the submitted DARD farm maps, and identified as being land associated with the farm of the applicant.

1. **Application Site** (FSN: 3/078/119/25)  
No relevant planning history
2. FSN: 3/078/119/25  
No relevant planning history
3. FSN: 3/078/119/24  
No relevant planning history
4. FSN: 3/078/119/26  
No relevant planning history

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

The application has been assessed under:

- the Strategic Planning Policy Statement for Northern Ireland (SPPS)
- the Banbridge / Newry & Mourne Area Plan 2015
- PPS3 – Access, Movement and Parking
- DCAN15 – Vehicular Access Standards
- PPS15 – Planning and Floodrisk
- PPS21 – Sustainable Development in the Countryside.
- The Building on Tradition Sustainable Design Guide.



**Consultations:**

DARD: advised in a consultation response dated 22/03/2016 that the applicant was found on the DARD CIS. However, DARD advised that the applicant does not have a farm business ID and has not claimed Single Farm Payment (SFP) in the last 6 years. Therefore, the consultation response indicates that applicant does not have a farm business which has been active and established for 6 years or more.

Transport NI: advised in a consultation response dated 01/04/16 that there is no objection to this proposal. Visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 03 bearing the date stamp 25/11/15, prior to the commencement of any development.

Environmental Health: advised in a consultation response dated 10/03/16 that there are no objections in principle to this proposal.

NI Water: A generic response was received from NI Water. NI Water have no objections in principle to this proposal.

Rivers Agency: advised in a consultation response dated 07/03/16 that the development does not lie within the 1 in 100 year fluvial flood plain, therefore Policy FLD 1 does not apply. Rivers Agency advised that there is an undesignated watercourse bounding the eastern edge of the site, therefore Policy FLD 2 will apply and access for maintenance should be provided. It is also stated that the development is located on the periphery of a predicted flooded area as indicated on the Surface Water Flood Map.

**Objections & Representations**

No. 27B and No. 27E Derrycraw Road, Derrycraw were notified of the application for the proposal.

No objections or representations were received.

**Consideration and Assessment:****Principle of Development**

As there is no significant change to the policy requirements for dwellings on farms following the publication of the SPPS, the retained policy of PPS21 will be given accorded 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. In reference to CTY10, there are three criteria to be fulfilled:

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

DARD advised in a consultation response dated 22.03.2016 that the applicant was found on the DARD CIS. However, DARD advised that the applicant does not have a Farm Business ID and has not claimed SFP in the last 6 years. Claiming SFP is the main means used to determine if the farm is active. The lack of SFP claims suggests that the applicant does not have an active and established farm business.

The client ID stated on the DARD farm map submitted, dated 09/06/08, does not relate to the DARD farm business ID (654827) stated on the P1C form. The main address related to the Business ID stated on the P1C form is located 29 Riverside Crescent, Bessbrook. An email from DARD, dated 4<sup>th</sup> May 2016, stated that the Business ID (654827) stated on the P1C form is an unknown category and Single Farm Payment is not claimed against this Business ID. The email states that the Business ID 654827 was formed on 25<sup>th</sup> November 2010. Therefore this Business ID has not been active and established for 6 years or more. This Business ID does have a herd number linked to it.

In certain instances the submission of further evidence other than a farm business ID can demonstrate that there is an active and established farm business. There was a request sent to the agent for further evidence to demonstrate that the farm business is currently active and established on 11th April 2016. However, there has been no supporting evidence submitted indicating that the applicant has an active and established farm for the previous 6 years.

Considering all of the information available, there is insufficient evidence to conclude that the applicant has a farm which is currently active and has been established for at least 6 years. Therefore, criterion (a) is not met.

Criterion (b) requires that no dwellings or development opportunities have been sold off from the farm holding since the introduction of draft PPS21 in November 2008. A request for a solicitor's letter to confirm that no development opportunities or sites have been sold or transferred within the last 10 years from the date of the application was made on 11<sup>th</sup> April 2016, but this information has not been received. There is no relevant planning history on the holding on the submitted DARD farm map.

Criterion (c) requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm. There are no agricultural buildings on this holding. The south-western section of the application site lies outside of the holding. The applicant resides at the dwelling house and garage at No. 27B Derrycraw Road which lies adjacent to the farm holding. The siting of the proposed dwelling and garage will cluster and be visually linked with the dwelling and garage at the applicant's address. The proposal cannot be sited to cluster or be visually linked with buildings associated with the DARD Business ID stated on the P1C form. The main address associated with this DARD Business ID (654827) is 29 Riverside Crescent, Bessbrook.

The proposal has failed on criterion (a) and (c) in policy CTY10, and is therefore unacceptable in principle in the countryside under policy CTY1.

## Ribbon Development

Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. This development proposal would create a ribbon of development. The dwelling to the west of, and abutting, No. 27B Derrycraw Road and No. 27B Derrycraw Road are located adjacent to each other and share a common frontage on the Derrycraw Road. The application site sits to the east of and adjacent to No. 27B Derrycraw Road. The proposal will share a common frontage on the Derrycraw Road with these two dwellings, and would therefore create a ribbon of development in the countryside if approved. Therefore, the proposal is contrary to Policy CTY8 – Ribbon Development.

## 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 CTY13 and CTY14 of PPS21.

### Policy CTY 13 – Integration and Design of Buildings in the Countryside

The proposed dwelling and garage on this site would have the visual backdrop of mature trees and rising hills when viewing the site from the public road moving west along Derrycraw Road from the houses located to the east. When approaching the site from the west from the Derrycraw Road the proposed dwelling and garage will have the visual backdrop of the rising hills to the north-east. The dwelling will be located on land adjacent to No. 27B Derrycraw Road. Therefore the proposed dwelling and garage will not be a prominent feature in the landscape.

The southern boundary is defined by a hedgerow, and the western boundary is partly defined by a wooden fence. There is a lack of mature vegetation on the north-west boundary, northern boundary and eastern boundary. Therefore, the application site is unable to provide a suitable degree of enclosure for the proposed dwelling and garage to integrate into the landscape. Although, there is a visual backdrop provided by the hills to the north-west and north-east, there will be strong critical views of the site from the Derrycraw Road due to the lack of mature vegetation on the site. This will be particularly detrimental when viewing the site from the east on the Derrycraw Road. Therefore, the proposed dwelling and garage will not blend unobtrusively with its surroundings. The site is an open and exposed site and the dwelling and garage will occupy an elevated position when viewed from the road.

There is not any proposed new planting on the eastern boundary. The proposal will use oak and beech trees and a hedge on the north-western boundary to aid integration. The trees will help filter views of the site from Derrycraw Road, however, this vegetation will not be sufficient to provide a suitable degree of enclosure on the site for the proposed dwelling and garage. New planting will inevitably take a

considerable length of time to mature and in the interim will not mitigate the impact of this proposal.

The proposed dwelling and garage will have a finished floor level of 40.51 which would be 1.5 metres below the ground level on the west of the site and 2.5 metres above the ground level on the north-eastern part of the site.

The proposal is for a single storey bungalow in the countryside with sunroom and porch. The design of the building is typical of houses in the surrounding area and the design is in accordance with the design guidance set out in the design guide Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside. The proposal is in keeping with the design and character of other dwellings in the area.

The proposal is visually linked and clusters with the dwelling and garage at the applicant's address, which according to the DARD maps, dated 09/06/08, is the main address associated with this farm holding. However, the main address linked to the DARD Business ID stated on the P1C Form is 29 Riverside Crescent, Bessbrook. The dwelling and garage at No. 27B Derrycraw Road are not considered part of the farm holding associated with DARD Business ID 654827.

In summary, the site is unable to provide a suitable degree of enclosure for the proposed dwelling and garage to integrate into the landscape. The proposal would be over reliant on new planting to aid integration. Therefore, the proposal is contrary to criteria (b) and (c) of policy CTY13.

## **Rural Character**

### Policy CTY 14 – Rural Character

Para 5.80 of Policy CTY14 of PPS 21 states, "...ribbon development is always detrimental to the rural character of an area as it contributes to a localised sense of build-up and fails to respect the traditional settlement pattern of the countryside." The proposed dwelling and garage would create a ribbon of development, as it would, along with the dwelling to the west of, and abutting, No. 27B Derrycraw Road and No. 27B Derrycraw Road, create a row of 3 houses with a common frontage onto Derrycraw Road. Therefore, the proposal is contrary to criteria (d) of policy CTY14.

## **Planning and Floodrisk**

Rivers Agency advised that there is an undesignated watercourse bounding the eastern edge of the site, therefore Policy FLD 2 of PPS15 will apply and access for maintenance should be provided. Paragraph 6.32 states that where a new development proposal is located beside a watercourse it is essential that an adjacent working strip is retained to facilitate future maintenance by Rivers Agency and that the working strip should have a minimum width of 5 metres. Under this proposal

there will be adequate space for a working strip for future maintenance by Rivers Agency.

**Recommendation:**

It has not been demonstrated that the farm business has been active and established for 6 or more years. The application site is unable to provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape. The proposed dwelling and garage would rely primarily on the use of new landscaping for integration. The proposal would cause a detrimental change to the rural character of the area as it would create a ribbon of development. The proposal fails to conform with planning policy and for this reason it is recommended to refuse the application.

**Refusal Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement 2015 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 farm business is currently active and has been established for at least six years, and the proposed dwelling and garage is 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 2015 and 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 on Derrycraw Road.
3. The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY13 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the site is unable to provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape and it relies primarily on the use of new landscaping for integration.
4. The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY14 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the dwelling and garage would, if permitted, create a ribbon of development on Derrycraw Road, and would therefore result in a detrimental change to the rural character of the countryside.



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## NEWRY, MOURNE & DOWN COUNCIL

Local Planning Office

Monaghan Row,

Newry,

BT35 8DJ,

**Reference:** LA07/2015/1244/F  
**Applicant Name:** Barney Mackin  
**Proposal:** Erection of farm dwelling and garage  
**Site Location:** 19.3m North-East of No27B Derrycraw Road Derrycraw Newry Co Down BT34 1RG

Newry, Mourne & Down Local Planning Office intends to refuse this application on the grounds that:

1 The proposal is contrary to the Strategic Planning Policy Statement 2015 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 farm business is currently active and has been established for at least six years, and the proposed dwelling and garage is 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 2015 and 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 on Derrycraw Road.

3 The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY13 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the site is

unable to provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape and it relies primarily on the use of new landscaping for integration.

4 The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY14 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the dwelling and garage would, if permitted, create a ribbon of development on Derrycraw Road, and would therefore result in a detrimental change to the rural character of the countryside.

### Consideration

Planning Policy CTY10 states that planning permission will be granted for a dwelling house on a farm where three identified criteria are met. The first of these, Criterion (a), requires that the farm business is currently active and has been established for at least 6 years.

CTY10 Dwellings on Farms (Page 27) - Justification and Amplification states in paragraph 5.38 - "New Houses on farms will not be acceptable unless the existing farming business is both established and active. The applicant will therefore be required to provide the farm's DARD business ID number along with other evidence to prove farming over the required period."

The planning policy test of CTY 10 (a) does not explicitly require the farm business ID number to be established for a period of six years, the test which is material to the assessment and consideration of the policy is that the "Farm Business" is currently active and has been established for at least 6 years. In further consideration of paragraph 5.38 applying the justification and amplification to policy test CTY10(a), the applicant is required to provide the farm's DARD Business ID number **along with other evidence** to prove active farming over the required period, that being a required time period of 6 years.

On 27<sup>th</sup> July 2016 our client sent an email to the Case Officer, Mr Stephen McCullough (Appendix 1) outlining the history of this family farm business, including a detailed breakdown of the establishment of the business, including the Business ID number. Despite the Planning Authority's assertions this business has been in operation for more than the requisite 6 year period. As previously advised by our client

“DAERA Policy.

A Category 1 DARD Business Id number is only issued by DARD when it has been established by the applicant that there is an independent and separate active business in existence.

In his application for a Business number on 06 November 2009 Ben declared that he had been actively farming his father's holding since 2007 and he supplied evidence to substantiate this fact. DARD subsequently accepted that Ben had established to their satisfaction that he had been running a separate, independent active farming business since 2007 and DARD duly acknowledged this fact when they issued him with a Category 1 business number. The date of issue of the number is not relevant. Ben established to DARD that he had been running a separate, independent active farming business since 2007 and this is the relevant and important date.

The DARD consultation response from Keith Johnston was dated 22 March 2016.

DARD (DAERA) should have had evidence on their file that would substantiate that Ben Mackin notified them on 6 November 2009 that he had been actively farming his father's holding at 27B Derrycraw Road since 2007 and that he requested in this application that he be issued a category 1 business number to reflect this fact. Ben submitted evidence to DARD that he had been actively farming the holding and also supplied evidence that HM Revenue confirmed that his unique tax payer reference of 96862 91824 included his farming activities. DARD accepted that Ben had established that he had been actively farming his father's holding at 27b Derrycraw Road since 2007 and DARD thereby issued him with a category 1 business number. 2007 is more than six years prior to 22 March 2016, the date on which Keith Johnston gave his response.

The standard consultee response incorrectly dwells on the date on which the Business Id had been in existence rather than the evidence which was presented to DARD which established that Ben was farming since 2007 and which was accepted by DARD. If NMD Planning wish to establish when Ben started to farm an active independent farming business then they should ask DAERA to confirm that Ben has already established to their satisfaction that he has



been actively farming his father's farm since 2007. The issue of a business number represents no more than DARD's acceptance that the farm had been actively farmed based on evidence supplied by the applicant. The evidence that was accepted by DARD established that Ben had been actively farming since 2007.

I trust that you will request that NMD to revert to DAERA and clarify this matter.”

Despite the submission of this additional information there has never been any further contact with DAERA to confirm these details. It is therefore concerning that not all of the information provided has been duly taken into account. In the very least DAERA should have been re-consulted to confirm these details which were provided almost 2 months ago.

The Applicant's wife Susan had a herd number issued on 20 April 1988 where they owned an agricultural holding and purchased animals. Following this they moved to Derrycraw Road on November 1997 the herd number was transferred to that address. The herd number was 401529. Their son Benjamin then took over the family farm business however by that stage DARD was no longer permitting the transfer of herd numbers to another person, even family members. He therefore had to apply for a new herd number in his own name and hence the new herd number. These details would have been included in the original application in 2010 as well as the fact that it was an "active business".

Benjamin was issued with herd number 422422 on 22 December 2010 and with a Category 1 Business Number 654827. The fact that Ben was issued with this category of business number indicated that DARD accepted, based on a letter from HMRC and other information, that the holding was using a bona fide agricultural business up to that point.

Although the Business ID number has not been established for more than 6 year, the agricultural business itself has been in existence for almost 30 years. These points can be clarified by DARD on the evidence above. To Date however only a single consultation to DARD has been sent out and this information was never queried. This information forms a significant part of the establishment of a principle for development and it is concerning that the Planning Authority have never sought to investigate the matter further.

With regards to the issue of clustering, the Case Officer in his report agrees that the site is beside the applicant's home. This site was identified as it is sited beside an existing group of buildings on this family farm holding. This site is located beside the main farm residence and there are no other buildings on the holding.

Criterion C from Policy CIY10 states "the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane."

The Policy does not require the a site is located beside the principle group of farm buildings on the holding, only that it is sited beside **an established group of buildings** (my emphasis) on the farm. There is no policy requirement for clustering or visual linkage with agricultural buildings as opposed to farm dwellings.

The existing buildings at No. 27B Derrycraw Road include the applicant's dwelling and a garage. This represents a grouping of 2 buildings at this location and it is felt that this site therefore meets the criteria listed under CIY10.

The Planning Appeal Commission's on this matter has been set out through Planning Appeal Ref: 2014/A0260 (25 April 2016) and most recently through Appeal Ref: 2014/A0219 (5th July 2016) both of which are attached for ease of reference in Appendix 2.

It is therefore felt that the siting of this proposal adjacent to an existing group of buildings on this holding therefore meets this policy requirement.

The further matters in relation to integration of the proposal into the landscape and ribbon development have arisen through the confusion surround the existing farm holding. As the proposal is visually linked with the existing group of buildings a lesser test for integration should be employed in this instance. This is established through case law and given these circumstances it is clear that this application requires further investigation before a decision can be reached. The issue of ribbon development may easily be overcome through repositioning of the proposal

to ensure a small visual break is created which will not in turn provide and another development opportunity. There is sufficient space within the application red line to accommodate this and if the principle of development can be established, this relocation could be agreed with the Council.

In the case of *Lamont v The Department of the Environment* it was found that “The first part of this policy is straightforward: if your farm has been in operation for 6 years AND there have been no relevant selloffs within 10 years from the date of application AND the proposed dwelling will link with or cluster with a group of established buildings on the farm planning permission will be granted.”

This policy is therefore expressively clear and identifies the situation in which an application will be successful.

Policy CTY13 of PPS21 relates to the integration and design of buildings in the countryside. Planning Appeal 2014/A0260 (Attached) addresses the issue of compliance with Policy CTY13 and The issues at the heart of the ‘Hyde’ case - *The Department of the Environment v The Planning Appeals Commission* specifically stating “When taking into account the relevant policy and guidance on this matter, I find, on balance, that the failure of the proposal to meet some of the integration requirements of Policy CTY13 are outweighed by its ability to broadly fall in line with the level of integration required for farm dwellings under Policy CTY10. The first reason for refusal does not therefore weigh against the proposal.”

In light of the above submission and the information previously submitted to the Council I would respectfully request that this application be deferred for further consideration.

Yours Sincerely,



---

**Stephen Hughes**

ERES Ltd.

**APPENDIX 1**  
**Email to Case Officer**



Stephen Hughes <stephen.hughes.79@gmail.com>

## NMD Planning. LA07/2015/1244/F

**Bernard Mackin** <barneymackin60@gmail.com>

Wed, Jul 27, 2016 at 10:47 AM

To: stephen.hughes.79@gmail.com

Cc: stephen.mccullough@nmandd.org, Barney.mackin@sky.com, Bernard Mackin <Barneymackin60@gmail.com>

Stephen,

Thank you for your update email below.

I note below that NMD Planning states that "it has not been demonstrated that the farm business is currently active and has been established for at least six years".

I refer also to a previous email from Planning dated 11 April 2016 where it states that "As the farm business cannot be confirmed as being active for at least 6 years from the DARD consultation response, could you ....."

I understand from our conversation on Monday that NMD planning do accept that the farm business is currently active but their problem exists regarding the longevity of the farm business.

DAERA Policy.

A Category 1 DARD Business Id number is only issued by DARD when it has been established by the applicant that there is an independent and separate active business in existence.

In his application for a Business number on 06 November 2009 Ben declared that he had been actively farming his father's holding since 2007 and he supplied evidence to substantiate this fact. DARD subsequently accepted that Ben had established to their satisfaction that he had been running a separate, independent active farming business since 2007 and DARD duly acknowledged this fact when they issued him with a Category 1 business number. The date of issue of the number is not relevant. Ben established to DARD that he had been running a separate, independent active farming business since 2007 and this is the relevant and important date.

The DARD consultation response from Keith Johnston was dated 22 March 2016.

DARD (DAERA) should have had evidence on their file that would substantiate that Ben Mackin notified them on 6 November 2009 that he had been actively farming his father's holding at 27B Derrycraw Road since 2007 and that he requested in this application that he be issued a category 1 business number to reflect this fact. Ben submitted evidence to DARD that he had been actively farming the holding and also supplied evidence that HM Revenue confirmed that his unique tax payer reference of 96862 91824 included his farming activities. DARD accepted that Ben had established that he had been actively farming his father's holding at 27b Derrycraw Road since 2007 and DARD thereby issued him with a category 1 business number. 2007 is more than six years prior to 22 March 2016, the date on which Keith Johnston gave his response.

The standard consultee response incorrectly dwells on the date on which the Business Id had been in existence rather than the evidence which was presented to DARD which established that Ben was farming since 2007 and which was accepted by DARD. If NMD Planning wish to establish when Ben started to farm an active independent farming business then they should ask DAERA to confirm that Ben has already established to their satisfaction that he has been actively farming his father's farm since 2007. The issue of a business number represents no more than DARD's acceptance that the farm had been actively farmed based on the evidence supplied by the applicant. The evidence that was accepted by DARD established that Ben had been actively farming since 2007.

I trust that you will request that NMD to revert to DAERA and clarify this matter.

My son Ben has currently agreed the sale of his home at Riverside Crescent Bessbrook, the registered address for his herd number / business number. He hopes to complete the sale of his home in the next month and a positive response to this application would be much welcomed as he hopes to be in a position to build beside his farming enterprise on this site, if approved.

I also note that prior to Ben taking over the farm business I had also ran it as a farm business with my wife having a herd number.

Regards  
Barney Mackin

Copied to Stephen McCullough NMD Planning for information.

Sent from my iPad

On 25 Jul 2016, at 14:43, Stephen Hughes [stephen.hughes.79@gmail.com](mailto:stephen.hughes.79@gmail.com) wrote:

Regards

**Stephen Hughes MRTPI**

<image001.png>

——— Forwarded message ———

From: <[stephen.mccullough@nmandd.org](mailto:stephen.mccullough@nmandd.org)>  
Date: Mon, Jul 25, 2016 at 9:12 AM  
Subject: Planning Application Ref: LA07/2015/1244/F  
To: [stephen.hughes.79@gmail.com](mailto:stephen.hughes.79@gmail.com)

Planning Application Ref: LA07/2015/1244/F

Hi Stephen,

Planning application Ref: LA07/2015/1244/F was discussed at an internal development management group meeting. The proposal is recommended for refusal for the following reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement 2015 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 farm business is currently active and has been established for at least six years, and the proposed dwelling and garage is 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 2015 and 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 on Derrycraw Road.
3. The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY13 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the site is unable to provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape and it relies primarily on the use of new landscaping for integration.
4. The proposal is contrary to the Strategic Planning Policy Statement 2015 and Policy CTY14 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the dwelling and garage would, if permitted, create a ribbon of development on Derrycraw Road, and would therefore result in a detrimental change to the rural character of the countryside.

Please accept this letter as notification of the recommendation going forward to the planning committee. The next planning committee meetings are on 3 August 2016, 31 August 2016 and 28 September 2016. The planning committee schedules are available two weeks prior to the committee meeting. The schedule can be viewed on the Council website and also on [www.planningni.gov.uk](http://www.planningni.gov.uk).

If you wish to make a deputation at the planning committee meeting you must contact Democratic Services by telephone or by email ([democratic.services@nmandd.org](mailto:democratic.services@nmandd.org)) at least 5 working days before the date of the meeting at which the application will be considered. Each representative who wishes to appear

before the Committee shall submit a prepared statement in advance of the meeting and shall only be permitted to speak to that statement. All information must be submitted a minimum of 5 working days in advance of the Committee Meeting to ensure that the issues raised can be fully processed and considered by officers prior to the Committee Meeting. Each deputation shall be permitted a maximum of 5 minutes to address the Committee.

Please refer to the Planning Committee Protocol available via the following link for further information regarding the operation of the committee.

<http://www.newrymoumedown.org/planning>

Regards,

Stephen McCullough  
Newry, Mourne and Down Area Assistant Planner

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

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**APPENDIX 2**  
**Planning Appeals**





# 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

<b>Appeal Reference:</b>	2014/A0219
<b>Appeal by:</b>	Mr Edward McMahon
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Dwelling and Garage
<b>Location:</b>	15 metres west of 63 Ballyneil Road, Moneymore
<b>Planning Authority:</b>	Department of the Environment
<b>Application Reference:</b>	I/2013/0249/O
<b>Procedure:</b>	Written representations and accompanied site visit on 17 July 2015
<b>Decision by:</b>	Commissioner E Kinghan, dated 5 July 2016

## Decision

1. The appeal is allowed and outline planning permission is granted, subject to the conditions set out below.

## Reasons

2. The main issues in the appeal are whether the proposal is acceptable in principle in the countryside and whether a dwelling can be satisfactorily integrated without adversely affecting rural character.
3. The Cookstown Area Plan 2010 is the statutory development plan relevant to this appeal. The site is located in the countryside where the Plan states that regional policies will apply. The relevant policy context is therefore provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21), specifically Policies CTY 1, CTY 10, CTY 13 and CTY 14. The planning authority withdrew its first reason for refusal on the basis that it duplicated the reference to policy CTY 1 found in the second reason.
4. Policy CTY 1 of PPS 21 sets out the types of development that are, in principle, considered to be acceptable in the countryside. It states that planning permission will be granted for a dwelling on a farm in accordance with Policy CTY 10. The planning authority argued that the proposal did not comply with criterion (c) of Policy CTY 10. This criterion requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm. Where practicable, access to the dwelling should be obtained from an existing lane. It follows that if the proposal complies with Policy CTY 10 it will also comply with Policy CTY 1.

5. The appellant claimed that agreement had been reached with a planning officer on the basis of the proposed siting to the rear of the existing farm dwelling and that the decision had issued in error as a result of a breakdown in communication. Irrespective of any perceived agreement with individual officers, the Department's decision was to refuse planning permission and that is the basis of the appeal.
6. The appeal site is located to the west and north of 63 Ballyneil Road. The parties agreed that if the appeal site was considered acceptable in principle, the preferred siting was to the north of the existing dwelling and access could be taken from the laneway to the east of the dwelling. These are matters that could be addressed by condition in the event of the appeal succeeding. That is the basis on which the proposal is assessed.
7. Criterion (c) of policy CTY 10 requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm and, where practicable, an existing laneway to be used for access. The planning authority's concern was that there was insufficient visual linkage between the proposed dwelling and farm buildings on the holding. The buildings identified as being in the appellant's ownership are the cottage and outbuildings at number 65 and the dwelling and garage at number 63. Whilst the planning authority expressed a preference for siting the proposed dwelling adjacent to what it considered to be the main farm buildings at number 65, these vernacular buildings are vacant and show no sign of use as part of the farm. Furthermore, there is no policy requirement for clustering or visual linkage with farm buildings rather than farm dwellings. It was suggested that this location offered better integration than the appeal site. Criterion (c) requires proposals to meet policies CTY 13 and 14 but does not require the site chosen to be the best possible location. It does not preclude the new dwelling being sited to cluster with an existing farm dwelling. I am satisfied that the siting proposed will result in the proposed dwelling being clustered and visually linked with the farm dwelling and garage at number 63. In the absence of any specific reasoning why the proposal would fail to meet this aspect of criterion (c), the proposal meets the locational requirements of CTY 10 and is acceptable in principle under CTY 1.
8. Notwithstanding the appellant's reference to previous Commission decisions which took the view that policies CTY 13 and 14 were not engaged where criterion (c) of policy CTY 10 was met, the Commission's position is as set out in 2014/A0260. The planning authority was satisfied that, if siting adjacent to number 63 was found acceptable in principle, a single storey dwelling sited to the rear of number 63 with access via the laneway to the east would be acceptably integrated. Planting around the site boundaries would further assist with integration. These are matters that can be secured by condition.
9. Concerns about the failure to meet CTY 14 relate to criteria (b) and (c). The planning authority's analysis was restricted to the area between numbers 61 and 65 Ballyneil Road. Approached from the west, the buildings at number 65 sit gable to the road and are well screened along the western boundary. A low hedge

interspersed with trees allows intermittent views of the site over a distance of around 100 metres. Number 63 and its garage sit on a road frontage site and can be clearly viewed on approach. Provided the dwelling is sited in the north eastern portion of the field, it will be viewed together with the existing farm dwelling against a backdrop of mature planting along the boundary with the laneway. Beyond the laneway there is a further single storey dwelling but the proposal will not be seen in conjunction with the appeal proposal as suggested by the planning authority. Travelling from the other direction, the transient view referred to by the planning authority would only arise if the dwelling was sited along the road frontage. The development would have a very limited impact on its immediate surroundings if the curtilage of the site was restricted to exclude the road frontage field. The proposed siting, together with the restricted curtilage would not result in suburban style build up as suggested. I am satisfied that a dwelling can be accommodated on the appeal site without causing a detrimental change to rural character.

10. As the reasons for refusal have not been sustained, the appeal will succeed. The NIEA consultation makes general reference to the site's location in an archaeologically sensitive area close to the site of a rath and to three recorded sites in the vicinity of the appeal site. The only precise information provided relates to a rath 110 metres north of the site which already has buildings in much closer proximity than the appeal site. In view of the generalised nature of the concerns a condition requiring archaeological evaluation of the site is not justified.

#### Conditions

- (1) Except as expressly provided for by Conditions 3, 4 and 6, the following reserved matters shall be as approved by the planning authority - the siting, design and external appearance of the dwelling and the means of access thereto.
- (2) The curtilage of the dwelling shall be restricted to the area hatched on the attached map PAC 1.
- (3) The dwelling shall be sited in the area cross hatched on the attached map PAC 1.
- (4) The ridge height of the dwelling hereby approved shall not exceed 6 metres above existing ground level at the lowest point within its footprint.
- (5) No development shall take place until there has been submitted to and approved by the planning authority a landscaping scheme showing the planting of a native species hedge around the 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 dwelling is occupied. 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.

- (6) Access shall be taken from the laneway to the east of 63 Ballyneil Road and visibility splays of 2.4 x 110 metres shall be laid out at the proposed access point before any building operations commence and shall be permanently retained thereafter.
- (7) Application for approval of the reserved matters shall be made to the planning authority before the expiration of three years from the date of this decision.
- (8) The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

This decision approves the 1:2500 scale site location plan PAC 1.

**COMMISSIONER ELAINE KINGHAN**

**Attendance at Site Visit**

Planning Authority: Ms Emma McCullag - Mid Ulster District Council

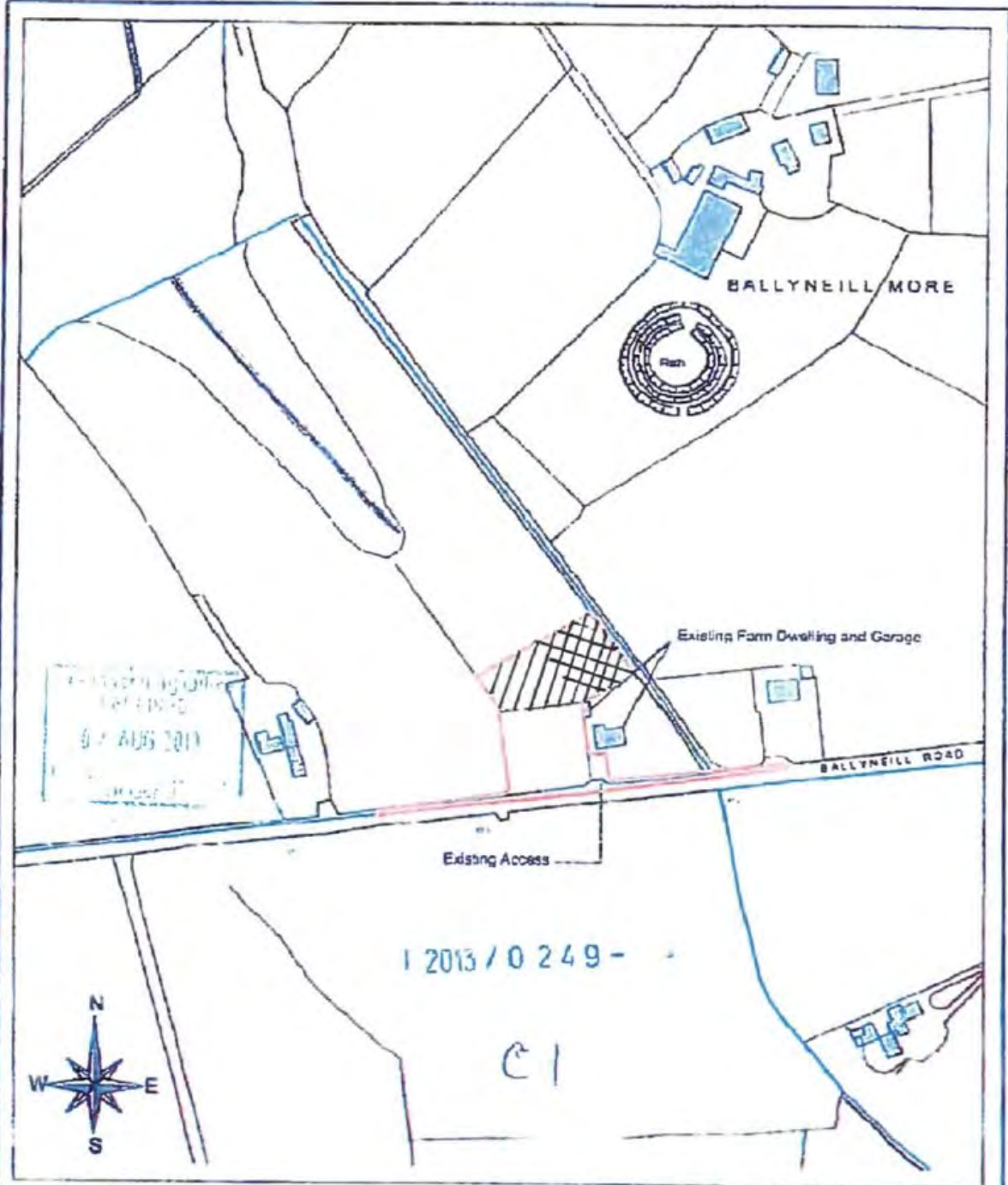
Appellant: Mr Christopher Cassidy - agent  
Mrs Paula McVeigh - appellant's daughter  
Mrs McMahon - appellant's wife

**List of Documents**

Planning Authority: A Statement of Case  
B1 NIEA Consultation response  
B2 Additional draft condition

Appellant: C Statement of Case  
D Rebuttal Statement

PAC1



Location Plan  
Scale 1:2500

O S Map Ref 109-04se

<p><b>CMI</b> Chartered Planners</p> <p>1001 CI The Boney Centre 1001 CI 1001 CI</p> <p>1001 CI 1001 CI 1001 CI 1001 CI</p>	<p>Client Mr K McVey</p>	<p>Scale/Sheet 1:2500 g. A1</p>	<p>Drawing no 1/17</p>
	<p>Project Proposed Farm Dwelling and Garage Adjacent to 53 Ballyneill Road, Kenoymore BT40 1TD</p>	<p>Date 10/08/19</p>	<p>Drawn by S.P.</p>
<p>Drawing Title Location Map</p>			

**PLANNING APPEALS COMMISSION**  
**THE PLANNING ACT (NORTHERN IRELAND) 2011**  
**SECTION 58**

**Appeal by Mr P Doran against the refusal of full planning permission for a dwelling and detached garage on a farm adjacent and immediately north of No28 Kesh Road, Belleeks, Newry.**

**Report**  
**by**

**Commissioner Pamela O'Donnell**

**Planning Service Reference: P/2013/0896/F**  
**Procedure: Informal Hearing on 2 October 2015**

**Report Date: 25 April 2016**



## 1.0 BACKGROUND

1.1 The Department of the Environment (DOE) received the application on 6 December 2013 and advertised it in the local press on 24 December 2013. No representations were received. The former Newry and Mourne District Council were consulted on the application on 4 September 2014 and agreed with the Department's opinion to refuse permission. A Notice was issued by the Department on 13 February 2015 refusing full planning permission for the following reasons:-

1. **The proposal is contrary to Policy CTY13 of Planning Policy Statement 21 'Sustainable Development in the Countryside' in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and therefore would not visually integrate into the surrounding landscape.**
2. **The proposal is contrary to Policy CTY14 of Planning Policy Statement 21 'Sustainable Development in the Countryside' in that the dwelling would, if permitted, result in a suburban style build up of development when viewed with existing and proposed buildings and the dwelling would, if permitted, create or add to a ribbon of development along Kesh Road and would therefore result in a detrimental change to the rural character of the countryside.**
3. **The proposal is contrary to Policy CTY6 of Planning Policy Statement 21 'Sustainable Development in the Countryside' in that the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.**

1.2 The Commission received the appeal on 18 March 2015 and advertised it in the local press on 31 March 2015. No representations were received.

1.3 On 1 April 2015, planning powers were transferred from the DOE to 11 local councils across Northern Ireland. At the date of the appeal, the Planning Authority was Newry, Mourne and Down District Council. While the appeal was lodged under the Planning (NI) Order 1991, it falls to be determined under the Planning Act (NI) 2011.

## 2.0 SITE AND SURROUNDINGS

2.1 The appeal site is significant in size, irregular in shape and it extends in a westerly direction from the Kesh Road. The site comprises a dwelling and detached garage/outbuilding at No 28, an agricultural building to the rear and south west of No 28 and agricultural land. The proposed dwelling and garage would be located in an area of the site that lies adjacent and to the north of No 28 and fronts onto the public road. This area would be part of a larger agricultural field with two natural boundaries to the west and east. The eastern (or road front) boundary is comprised of a hedge around 2.0m in height, while the western boundary is comprised of hedge around 1.5m in height. There are a number of road front dwellings and agricultural buildings in the surrounding area. The land rises up westwards from the Kesh Road.



### 3.0 THE COUNCIL'S CASE

- 3.1 Paragraph 1.12 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) indicates that any conflict between the SPPS and retained policy must be resolved in favour of the SPPS in this transitional period. It goes on to say that where the SPPS is silent or less prescriptive on a particular planning policy matter, this should not be judged to lessen the weight to be afforded to the retained policy. While there is little change in relation to policy allowing for a dwelling when there are personal and domestic circumstances to justify such an outcome in the SPPS, the policy for dwellings on farms has changed in the SPPS. It indicates that dwellings on farms must comply with Local Development Plan (LDP) policies regarding integration and rural character. There is no LDP in place at the moment. Accordingly, and in line with paragraph 1.12 of the SPPS, retained policy as set out in Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS21) should be afforded greater weight in determining the appeal.
- 3.2 The Council acknowledges the Commission's position as set out in appeal 2012/A0270. However, it considers policies CTY13 and CTY14 of PPS21 to be material considerations when assessing a proposal for a dwelling on a farm and the SPPS has clarified this position. The ongoing approach has been to assess proposals under such policies even when a proposal complied with criteria (a - c) of Policy CTY10. This is contrary to the Commission's position. It is acknowledged that the DOE did not challenge the Commission's decision. It is not known why. In this case the proposal does not comply with policies CTY13 and CTY14 of PPS21. It is considered that the position taken by the Council in its assessment and decision reflects that of the 'Hyde' judgement – *The Department of the Environment v The Planning Appeals Commission [2014] NIQB 4*.
- 3.3 The site is visible on approach from the north west and when travelling from this area the site is open and prominent to view. The site is approximately one metre above road level and the landform rises. It is difficult to envisage how a dwelling with associated ancillary works could be adequately integrated and deemed acceptable given that the proposed development would sit above No 28 and the roadside vegetation would offer no degree of enclosure. The vegetation along the road front would be insufficient to enclose the proposal. The proposed development would be located in part of a much larger roadside agricultural field with no means of natural separation between the site and the surrounding land. The site has only two vegetative boundaries along the west and east. However, the eastern or roadside boundary would be removed by visibility splays, even if reduced to 2.4m by 45m. Furthermore, extensive site works would be required to facilitate the proposal given the topography. This would reinforce the prominent nature of the site. Development in this road frontage location would appear dominant in the local landscape and substantial landscaping would be required to adequately integrate it, contrary to Policy CTY13.
- 3.4 Within 220m of the site there are five dwellings, namely Nos 20, 24, 28, 19 and 33 Kesh Road. When travelling northwards from No 20, the proposal would be obvious in the landscape. It would read with Nos 20, 24, 19 and 28 and result in a build up of development. From No 24 Kesh Road travelling north, the proposal would read with Nos 24, 28 and 33. Travelling southwards from No 33, the appeal site appears exposed and any new build therein would be easily read with other dwellings in the vicinity including Nos 19, 28 and 33. When viewing the site immediately adjacent and to the east of its northern boundary, its open nature can be appreciated and from this view the proposal would visually relate with the dwellings at Nos 19, 28 and 20.

- 3.5 The proposal would introduce a suburban design with a large and prominent garden area. When taken with existing dwellings in the area, the cumulative effect would lead to a change in the rural character of the area.
- 3.6 The proposal would create a ribbon of development on approach in either direction along Kesh Road contrary to Policy CTY14. Travelling south, the site would read as a ribbon of development with the dwellings at Nos 20 and 28. In the other direction, it would read with Nos 24 and 28 to create a ribbon of development. These properties have a common frontage to the road. If approved, the appeal proposal would also create a gap site between Nos 24 and 28 Kesh Road. This could potentially pave the way for the further erosion of the rural character of the area.
- 3.7 Policy CTY14 refers to Ribbon Development. In order to prevent duplication, the Council did not include an additional objection under Policy CTY8 of PPS21, which also deals with Ribbon Development. The approved farms dwellings referred to by the Appellant clustered with the established farm buildings and were considered acceptable. As no detailed information was provided in respect of the applications referred to in Appendix six of the Appellant's evidence, the Council cannot comment.
- 3.8 The Council notes that due to restricted mobility, the Appellant requires assistance in running his farm holding. The holding is, however, small and unlikely to require a full time worker. The son has flexible working arrangements and only lives 5 mins drive away. Both he and his mother continue with their part-time employment and neither has had to leave to provide continual care. The argument that the proposal would allow for ease of movement between the two dwellings is not supported by the proposed layout, topography and enclosed boundary. Furthermore, there is existing space within the curtilage of No 28 to accommodate a granny flat. Alternatively, No 28 could be adapted to facilitate the Appellant's needs. The circumstances of this case are not considered exceptional and do not justify a new dwelling.
- 3.9 If the appeal is allowed, the following conditions were proposed on a without prejudice basis:-
- Five year time limit to commence development
  - Visibility splays of 2.4 x 45m
  - Occupancy condition (if necessary)

#### 4.0 THE APPELLANT'S CASE

- 4.1 The Council appears to accept that the proposal meets the criteria of Policy CTY10. However, even though the proposal would visually link and cluster with the established group of buildings on the farm, they consider policies CTY 13 and CTY14 to be engaged. A key issue in the appeal is therefore whether or not the latter policies should apply.
- 4.2 Policy CTY10 is unambiguous in stating that only in exceptional circumstances will policies CTY13 and CTY14 be engaged. The Commission's position on this issue is settled (see 2012/A0270). Accordingly, policies CTY13 and CTY14 are not engaged when a proposal satisfies criteria (a), (b) and the siting requirements of criterion (c) of Policy CTY10. The Commission has been consistent in determining other similar appeals as set out in the following decisions – 2013/A0149, 2013/A0068, 2014/A0113, 2012/A0231, 2013/A0035, 2012/A0318 and 2013/A0114. By choosing to ignore the Commission, the DOE's behaviour

has been unreasonable. If unhappy with the Commission's approach, they should have challenged their decision.

- 4.3 In contrast to the Commission's approach, the single Commissioner decisions in appeals 2014/A0255 and 2014/A0270 proceeded to consider policies CTY13 and CTY14. Decision 2014/A0034 is also inconsistent with the seven decisions listed above. No mention was made of the Commission's corporate position. However, the Commissioner did note that "the failure to meet some of the integration requirements of Policy CTY13 are outweighed by the ability to achieve the level of integration required for farm dwellings under Policy CTY10" which was considered to be the leading policy for such development.
- 4.4 The training programme delivered by the Commission to the DOE in advance of the transfer of planning powers also acknowledged the principle that where a proposal is sited as prescribed in Policy CTY10, then the integration tests of Policy CTY13 are unlikely to be critical. It follows that the same approach must apply to Policy CTY14.
- 4.5 The Appellant would concur with the Council's position regarding the weighing direction within the SPPS and agrees that the weight rests with retained policy, namely PPS21. Therefore, Policy CTY10 of PPS21 should be afforded greater weight than the corresponding policy in the SPPS and in this context, the arguments made above in respect of policies CTY13 and CTY14 remain. However, even if engaged, the proposal would comply with policies CTY 13 and CTY14.
- 4.6 The issues at the heart of the 'Hyde' case - *The Department of the Environment v The Planning Appeals Commission [2014] NIQB 4* related to the acceptability in principle of a particular land use. The issues in this case relate to ancillary environmental tests. There are considerable differences between the two proposals, the relevant policies involved, and indeed in the relationships between the pertinent policies. The Hyde case is not directly comparable to this appeal. That judgement should not be taken to infer that if a proposal complies with the initial requirements of Policy CTY10, policies CTY13 and CTY14 must be taken into account. It is important to acknowledge that the judgement related to a purported procedural flaw by the Commission. The judgement reinforces the fact that a decision maker must show their understanding of a policy, and if departing from it, they are required to demonstrate why it was considered appropriate to depart from the policy. Had the Commissioner outlined a particular justification, Justice Treacy would not have had cause to question whether the decision might have been different. In this case, if the Commission adopts their settled position, the resultant decision would not be open to challenge.
- 4.7 The Hyde judgement found that the approach mandated by Policy CTY1 is that proposals must be assessed against all planning policies and material considerations. In this case, Policy CTY10 makes it clear that policies CTY13 and CTY14 only apply in certain circumstances, but the policies in the Hyde judgement have no such cross-references. Paragraph 5.0 of PPS21 indicates that in the exercise of its responsibility for development management, the Department assesses development proposals against all planning policies and other relevant material considerations. This text does not infer that a decision maker is obliged to consider all policies equally and it does not outline how proposals should be assessed when policies are in conflict. However, it is common sense that if conflict arises and one policy supports the proposal but the other does not, the balance should be tipped in the Appellant's favour provided the proposal would not result in demonstrable harm to interests of acknowledged importance. Clearly, there is an obligation to attribute weight to a series of often competing policies before arriving at a balanced decision. In this case, whether or not there is a requirement to assess proposals

against all policies and considerations, there is a responsibility to consider the weight to be attached to different policies and considerations.

- 4.8 An important consideration in this appeal involves deciding how much weight to attribute to policies CTY13 and CTY14, not necessarily to have no regard to them whatsoever. Policy CTY10 clearly indicates that the aforementioned policies will only be engaged in exceptional circumstances. They would not therefore be engaged in all circumstances and the reason for not engaging the policies in this case is that the leading policy advises that this is the correct approach to take. Policy CTY10 provides the justification for the non engagement of policies CTY13 and CTY14 in exceptional circumstances, unlike the 'normal' circumstances referred to in paragraph 5.0 of PPS21.
- 4.9 Policy CTY1 of PPS21 states that all proposals must be sited and designed to integrate sympathetically with their surroundings and must meet other planning and environmental considerations. It is clear that Policy CTY10 is robust and self contained with respect to other environmental considerations contained in policies CTY13 and CTY14 save when exceptional circumstances occur. This is distinct from the interrelationship between policies AMP10 and CTY11 in the Hyde case. In that case, it was contended that the Commission erred in concluding that because the proposal complied with Policy CTY11, then Policy AMP10 had no bearing. In this case, within Policy CTY10 there is in fact express indication that policies CTY13 and CTY14 are only engaged in exceptional circumstances. Therefore, the Hyde judgement need not attract determining weight in the assessment of this proposal.
- 4.10 The preamble to PPS21 sets out some of the circumstances in which the provisions of PPS21 will take precedence over the provisions of other policies. Clearly this applies within PPS21 also. It is contended that in this case Policy CTY10 takes precedence over policies CTY13 and CTY14, save for exceptional circumstances. The Appellant's case is not that it would be impermissible to take account of policies CTY13 and CTY14, but that it would be Wednesbury unreasonable to attach significant weight to them given the wording of Policy CTY10. While noting *Tesco Stores Ltd v Dundee City Council [2012] PTSR 983* as cited in the Hyde judgement, this case is materially different as there is no suggestion of the decision maker failing to understand the relevant policy or having regard to same.
- 4.11 The site is located in open countryside that has experienced a moderate degree of pressure for new residential development. Housing is typically positioned adjacent to roads and this settlement pattern has been influenced by the availability of services and by the need to avoid building on elevated or sloping terrain. The development pattern ranges from individual dwellings scattered throughout the landscape through to concentrated farm complexes and smallholdings typically sandwiched between the road and sloping ground. The appeal site lies at the bottom of a hillock and the rolling hills and drumlins surrounding the site preclude anything other than filtered views into and through the host field. Consequently, critical views into and through the site are limited to the immediate road frontage. The site is enclosed to the front by a mature hedgerow although it is elevated slightly above the road. Rising terrain functions as a backdrop to the site, while existing buildings, the wider terrain and other natural landscape features combine to ensure that the site is well integrated with its surroundings.
- 4.12 Paragraph 5.59 of PPS21 outlines the main criteria against which the degree of visual impact will be considered. The Development Control Report (DCR) does not indicate that the proposal was assessed in this manner and no weight has been attributed to the fact that the proposal complied with at least two and arguably three of the criteria within paragraph 5.59. The proposal would adhere to the principles set out in paragraph 4.2.1 of the Building on Tradition

document (BOT). A “full frontage” location has been avoided (views would be side on), the site has two boundaries and the proposal would be clustered with a group of buildings on the farm. The combination of factors would mean that prominence would be avoided and the proposal would not rely on new landscaping in order to integrate. In this context, perceived shortcomings in terms of an effective backdrop to the proposal should not be determining. The DCR does not mention the BOT. Whereas Policy CTY13 refers to long, established natural boundaries, this is required to be cross referenced with BOT principles which refer to the preference (my emphasis) for at least two existing boundaries to be in place. The design of the proposal would be appropriate for the site and the locality.

- 4.13 The floor level of the proposal would be generally consistent with that of No 28 and a site elevated above Kesh Road does not mean that sufficient enclosure would not be available. No retaining structures are proposed and the site would be graded. Minimal site works would be required and critical views would be limited. The roadside hedge is not the only boundary and it can be reinstated behind reduced visibility splays.
- 4.14 The proposal would not occupy a ridge top location nor would it breach the skyline. The DCR does not identify any critical views of the proposal and no weight has been given to the rising ground to the rear of the site or that any views would be close to the dwelling and therefore limited. The Council does not appear to acknowledge that a group of buildings such as a farm complex may also provide an opportunity to sensitively integrate a new building, provided it does not adversely impact upon rural character. Paragraph 5.65 of PPS21 refers to flat landscapes and exposed hill areas. However, the site is not located in such an area and the report did not explore this issue. Landscapes vary as described in paragraph 5.58 of PPS21. The proposal, including any necessary site works would blend unobtrusively with the landform, existing trees, slopes and other natural features which provide a backdrop. Critically, the proposal would be sited as prescribed in Policy CTY10. All things considered, it is respectfully contended that the proposal is fully compliant with the requirements of Policy CTY13, even though this particular policy should not be engaged
- 4.15 In appeal 2014/A0034 (referred to previously), it was found that by extending road frontage development, that proposal would have further suburbanised and eroded the rural character of the area, contrary to Policy CTY14. This proposal can be distinguished from that proposal evidentially as well as contextually. In this case there has been no assertion that the proposal is contrary to Policy CTY8 of PPS21 or that the rural character of the area is susceptible to erosion by ribbon development. In fact, this proposal would be adequately separated from nearby developments to prevent coalescence and there is no prospect of this proposal creating a potential infill site.
- 4.16 Planning application P/2013/0079/F had been recommended for refusal under policies CTY8, CTY13 and CTY14 of PPS21. The Councils’ deferred consideration of that case indicates that the proposal was clustered with the only building on the farm and this appears to have carried greater weight than previous concerns relating to the creation of ribbon development, integration and rural character. This is inconsistent and unfair to the Appellant. Paragraph 5 of appeal 2006/A1430 is also relevant with respect to fairness and equity as the application of policy relating to integration and rural character involves the same basic principles.
- 4.17 The DCR states that this proposal would be unduly prominent and given the open and elevated nature of the site it would result in a suburban style build up of development in the area. However, BOT explicitly acknowledges the spatial disposition of buildings on hilly farms and the traditional pattern of development in this area involves development along the lower

contours, typically along roadsides. The existing settlement pattern is such that the majority of buildings front the road with little appreciable set back and the proposal would be no different. Given the substantial buffers between the nearest developments to the north and south of the proposal, 'ribboning' would not be a problem. Paragraph 5.79 of PPS21 advises that a new building in the countryside should adopt the spacing of traditional buildings found in the locality or (my emphasis) integrate sensitively with a group of buildings, such as a farm complex. Despite the either or scenario, the Council have attached absolute emphasis upon the requirement to adopt the spacing of traditional buildings found in the area. The proposal would cluster with an established group of buildings on the farm in accordance with Policy CTY10 and adhere to BOT principles for such proposals. The proposal would also be sited as recommended in Policy CTY14.

- 4.18 The DCR does not detail the extent of intervisibility with other existing and approved development contrary to paragraph 5.78 of PPS21. It does not detail the vulnerability of the landscape and its ability to absorb further development and no weight has been given to the siting, scale and design of the proposal contrary to paragraph 5.79 of PPS21. Furthermore, the DCR does not elaborate on how the proposal could constitute ribbon development. There would be limited intervisibility in this case and the landscape can absorb the proposal having regard to paragraph 5.76 of PPS21. Two adjacent dwellings would not be uncharacteristic of the area and the proposed siting arrangement would be entirely consistent with traditional farm groupings on sloping terrain. Topographical characteristics of this nature typically force developments to be carried out side by side and in this respect, the siting pattern would be reflective of the terrain rather than indicative of 'ribboning'.
- 4.19 The appeal proposal would be much more sensitively sited than the majority of the existing development clusters in the area as seen in the attached photographs. It is clear that the overall intention of PPS21 is to consolidate development at existing farm clusters and the appeal proposal would visually link with the farm complex. Appendix six provides examples of approved farm dwellings adjacent to existing groupings that could result in ribbon development. In those cases, the DOE appears to have attached greater weight to a proposal clustering with a farm group (under Policy CTY10) rather than complying with Policy CTY8. The same approach should be applied to the appeal case.
- 4.20 The personal circumstances advanced ought not to be treated in isolation. The combination of factors ought to outweigh any perceived shortcomings with respect to policies CTY13 and CTY14. The Commission's training to the DOE outlined that there are several routes to permission for an individual dwelling and that an Appellant only needs to succeed on one. Failure to meet policy is not always fatal as an Appellant may sometimes succeed on a combination of factors. Planning Application P/2013/0654/O was approved due to personal circumstances. That application was for a farm dwelling on an alternative site which was not clustered with the farm buildings. The personal circumstances and topography in this case clearly dictate that the new dwelling should be positioned as close to the road and to No 28 as possible.
- 4.21 The Appellant took a stroke five years ago and it has impacted on his ability to walk and read. He requires a walking stick and he is unable to maintain an active role in the maintenance of his farm business. It is therefore imperative that accommodation is available for the person actually engaged in agricultural operations on the farm (the Appellant's son). The Appellant's medical condition is such that he requires a significant level of care and support from his family and while his wife acts as his carer, his needs dictate that he cannot rely on his wife alone. His son combines his farming responsibilities with caring for his father. The Appellant

has five children in total. They help out on the farm. Another son lives around the border on the Dublin road and works in Carlingford.

- 4.22 The reasons behind this proposal are clearly site specific given the requirement to run the farm business. If the appeal is dismissed, the Appellant's hardship would be exacerbated insofar as there would be no one available to attend to duties on the farm at short notice. His son would not be available immediately to assist with any emergencies and administer daily care and support. The Appellant's wife would be forced to leave her employment which she is unable to do so for financial reasons.
- 4.23 There are no alternative solutions available. There is no space to extend the existing dwelling due to its position as it is bounded by the road and by the embankment to the rear. The access arrangements also preclude an extension to the side. A temporary mobile home would offer no respite because the Appellant's condition is long term. In any case, the Appellant's son could not raise his infant child in a mobile home. There are no other buildings on the holding that could be converted to residential accommodation. The proposal is consistent with the requirements of Policy CTY6 of PPS21. Mr Bradley MLA stated that the proposal complied with Policy CTY10 and asked that significant weight be given to the personal circumstances in this case. He had petitioned the Minister for flexibility in respect of the application of PPS21, but acknowledged this had not filtered through to the planning process.
- 4.24 The Appellant was content with the proposed conditions with the provision that an occupancy condition would only be imposed if deemed necessary.

## 5.0 CONSIDERATION

- 5.1 The main issues in the appeal are: (i) whether the policies relied on by the parties need to be taken into account, (ii) whether the proposal is acceptable in principle in the countryside and (iii) the effect of the proposal on visual amenity and rural character.
- 5.2 While not as detailed as the Appellant's analysis of the site and its surroundings, the DCR sets out the objections to the proposal against the relevant policies. More details were provided in the Council's statement of case and at the Hearing. The evidence is adequate to enable full consideration of the issues involved.
- 5.3 Section 6 (4) of the Planning Act states that where, in making any determination, regard is to be had to the local development plan (LDP), the determination must be made in accordance with the plan unless material considerations indicate otherwise. Section 45 (1) of the Act requires that regard must be had to the local development plan so far as material to the application and to any other material considerations. Under the Planning (Local Development Plans) (Amendment) regulations (NI) 2016, development plans adopted under the 1972 and 1991 Planning Orders operate as LDPs until Councils produce their own plans. Therefore there is a LDP in place presently, namely the Banbridge Newry and Mourne Area Plan 2015 (BNMAP). While it identifies the site in the countryside, there is no specific policy within the BNMAP that is material to this proposal.
- 5.4 Paragraph 1.5 of the SPPS states that its provisions must be taken into account in the preparation of LDPs and are material to all decisions on individual planning applications and appeals. Paragraph 1.10 states that a transitional period will operate until such times as a Plan Strategy for the council area has been adopted. During this transitional period, planning authorities will apply existing policy contained in specified PPS documents (and other

documents) together with the SPPS. Paragraph 1.12 states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS. 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. It goes on to say that 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 afforded to the retained policy.

- 5.5 The SPPS has a subject policy entitled 'Development in the Countryside'. It allows for dwellings on farms subject to the proposed dwelling visually linking or clustering with an established group of buildings on the farm holding. It goes on to say that dwellings on farms must also comply with LDP policies regarding integration and rural character. In this case, the latter requirement can not apply as there are no such LDP policies at present. Retained policy, in respect of development in the countryside, is provided within PPS21. Regarding dwellings on farms, it also requires a new building to be visually linked or sited to cluster with an established group of buildings on the farm. Having compared paragraphs 6.70 and 6.77 of the SPPS with paragraph 3 of Policy CTY1 of PPS21, I see no significant difference. While there are specific references to rural character in the SPPS, this is a planning and environmental consideration covered in Policy CTY1 of PPS21. The SPPS introduces no discernible change of policy relevant to this appeal. Therefore, retained policy applies.
- 5.6 Policy CTY1 of PPS21 sets out the types of development which are considered to be acceptable in principle in the countryside. These include a dwelling based on special personal or domestic circumstances in accordance with Policy CTY6 and a dwelling on a farm in accordance with Policy CTY10. If the proposal accords with either policy, it is therefore acceptable in principle. The evidence from the Council indicates that the proposal satisfies Policy CTY10 in terms of the three criteria in the head note. The proposal is therefore acceptable in principle. The objection is that the proposal fails to comply with policies CTY13, CTY14 and CTY6.
- 5.7 Commission decision 2012/A0270 was taken in June 2013. Since then the 'Hyde' judgement was published in January 2014. The latter judgement referred to *Tesco Stores Ltd v Dundee City Council [2012] PTSR 983*. This states that policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context. Justice Treacy who presided over the Hyde case noted that although 'Tesco' was concerned with the proper interpretation of a development plan, the same considerations apply to the carefully drafted and considered statements of policy embodied in Planning Policy Statements. Justice Treacy states that Policy CTY1 of PPS21 must be read subject to paragraph 5.0. Thus development proposals must be assessed against all planning policies and other material considerations that are relevant to it. While the Hyde case referred to different policies and their inter-relationship, the salient points for this appeal are that neither Policy CTY1 nor CTY10 are self contained and as policies CTY13 and CTY14 set out the criteria for judging the acceptability of new buildings in the countryside, they are therefore relevant. This is contrary to the approach taken in 2012/A0270. In the light of the Hyde judgement, policies CTY13 and CTY14 must be considered and put into the scales when assessing the planning merits of the proposal.
- 5.8 Policy CTY13 of PPS21 relates to the integration and design of buildings in the countryside. It was argued that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure contrary to criterion (b) of the policy.



- 5.9 The Justification and Amplification to Policy CTY13 indicates at paragraph 5.62 that a group of existing buildings, such as a farm complex may also provide an opportunity to sensitively integrate a new building provided this does not adversely impact on rural character. Paragraph 5.41 of the Justification and Amplification text to Policy CTY10 implicitly acknowledges that the existing farm group or the application site may not be well landscaped and allows the presence of vegetation to be discounted in assessing visual linkage. While BOT is guidance and not planning policy, it has a role in interpreting PPS21. In offering advice on the general topic of integrating with the landscape, it suggests that developers should look for sites with at least two boundaries and preferably three. It suggests linking with hedges and trees only where the dwelling is to be located away from the existing farm cluster.
- 5.10 It is common case among the parties that the proposal would visually link or be sited to cluster with the established group of buildings on the farm, namely No 28, the detached garage/outbuilding and the agricultural shed. When viewed from surrounding vantage points, the proposal would read as being visually interlinked with the building group with little appreciation of any physical separation that may exist between them. While the appeal site has some integrating features with the vegetation to the west and the presence of the farm buildings further to the south, the provision of sight visibility splays of 2.4m x 45m and the necessary ancillary works would inevitably open the elevated site up to view which would reinforce the visual impact of the proposal. New landscaping (and the reinstatement of hedging behind the visibility splays) would aid with integrating the proposal. However, given the aforementioned combination of buildings and vegetation along two boundaries, it need not be wholly reliant on landscaping. In assessing the proposal, the Council did not take into account the presence of the existing buildings and the potential of the proposal to integrate with them. The overall thrust of PPS21 is to group new development with existing built commitments in the landscape rather than in isolation. When taking into account the relevant policy and guidance on this matter, I find, on balance, that the failure of the proposal to meet some of the integration requirements of Policy CTY13 are outweighed by its ability to broadly fall in line with the level of integration required for farm dwellings under Policy CTY10. The first reason for refusal does not therefore weigh against the proposal.
- 5.11 Policy CTY14 of PPS21 relates to the impact of a proposal on the rural character of an area. It was argued that the proposal would create ribbon development and result in suburban style build up contrary to criteria (b) and (d) of CTY14. Criterion (d) of Policy CTY14 directs the decision maker to Policy CTY8 of PPS21. This relates to ribbon development. While Policy CTY8 was not specifically referred to in the decision notice, ribbon development was and it is cross-referenced with Policy CTY14. I am satisfied that the requirements of CTY8 fall to be considered.
- 5.12 Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. While the policy does not provide a comprehensive definition of ribbon development, paragraph 5.33 gives examples of instances that can represent ribbon development. It states that a ribbon does not necessarily have to be served by individual accesses nor have a continuous or uniform building 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 they are visually linked.
- 5.13 In this case, the proposal would have common frontage with and visually link with Nos 28 and 20 Kesh Road from around viewpoint 3. When travelling further south, the proposal would share common frontage with Nos 28, 24 and 20 Kesh Road. When travelling north the proposal would share a common frontage with the buildings at Nos 20, 24 and 28 Kesh Road. It would

therefore result in ribbon development. Regardless of whether or not a gap site would be created, the proposal would be contrary to criterion (d) of Policy CTY14 and Policy CTY8. The proposal would visually link with the existing farm buildings. When viewed cumulatively with them and with the other aforementioned buildings including those at No 19 and 33 from viewpoints 1 and 2 it would result in a suburban style build up of development contrary to criterion (b) of Policy CTY14. The Appellant referred to the traditional settlement pattern in the area in support of his case and to certain paragraphs of PPS21. While I would accept there are a number of road front dwellings in the area due to the topography and that PPS21 advocates the consolidation of development, I see nothing in PPS21 or in BOT that endorses ribbon development or suburban style build up. In any event, there may be other alternative sites that the Appellant could consider. For the reasons stated, the proposal fails to comply with policies CTY8 and CTY14.

- 5.14 To supplement his case, the Appellant put forward personal circumstances for consideration. At the Hearing, the Appellant's son indicated that farming is not his main occupation. He works shifts in Norbrook full time. He also stated that he lives nearby in Belleeks. Neither the Appellant's son nor wife have had to curtail their working arrangements to provide care over the five years since the Appellant's stroke. In any event, his son lives only 3-4 miles away and he could be on hand in good time to assist if a medical emergency were to arise. The personal circumstances advanced were not supported with medical evidence from a health professional detailing the level of care required. Furthermore, there is sufficient space available around either side of No 28 to provide an annex or extension for additional accommodation if necessary. I fail to see how the existing access arrangements, which includes separate access points to either side of the house, would preclude this. If one has to close, the other access would still be available. For the reasons stated, the personal circumstances do not satisfy Policy CTY6 and, in themselves, they do not justify setting aside the environmental objections to the proposal.
- 5.15 In the absence of details around the circumstances advanced in planning application P/2013/0654/O, my consideration remains unchanged. Planning approval P/2013/0079 does not appear to meet the policy requirement as there was no established group of farm buildings in that case. It is not in the public interest to replicate such decisions and this one example does not justify approving the appeal proposal. The Appellant referred to a number of other planning applications and provided site location maps in appendix six of his evidence. Photographs of the area were also enclosed. In appeal 2012/A0270, ribbon development was not an issue. No argument was put forward to suggest that any of the examples cited had the same physical context as the appeal proposal. Given this and in the absence of detailed information pertaining to the circumstances of each case, I am not persuaded they are directly comparable to the appeal proposal. The issues in this appeal are specific to this site, the surrounding area and the personal circumstances advanced. An inconsistent approach in the application of policy has not been demonstrated. I do not therefore accept that the Appellant has been unfairly treated.
- 5.16 I acknowledge that the proposal broadly complies with the integration requirements of policy as specified. However, this finding and the personal circumstances advanced do not outweigh the failure of the proposal to meet Policy CTY14 and overcome the issues of ribbon development and suburban style build up.

**6.0 RECOMMENDATION**

- 6.1 For the reasons stated, I find the second reason for refusal to be sustained and to be determining. The arguments advanced in respect of Policy CTY6 do not overcome this failing. I therefore recommend to the Commission that the appeal be dismissed.

This recommendation relates to - Drawing No 01 (1:2500 OS site location map) and Drawing No 02 Ref 620.P01 (site layout, elevations and floor plans at various scales) both stamped refused by the DOE on 13 February 2015

**List of Appearances**

<b>Planning Authority:-</b>	Ms P Manley (Newry & Mourne District Council) Mr A Donaldson (Newry & Mourne District Council)
<b>Appellant:-</b>	Mr C O'Callaghan (Agent) Mr D Bradley (MLA) Mr P Doran (Appellant) Mr C Doran (Appellant's son)

**Documents**

<b>Planning Authority:-</b>	"A" Statement of case (Newry & Mourne District Council) "A1" Post Hearing comments on the Hyde judgement "A2" Planning History re P/2013/0079/F
<b>Appellant</b>	"B" Statement of case (Mr C O'Callaghan) "B1" Post Hearing comments on the Hyde judgement