



February 8th, 2019

**Notice Of Meeting**

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 13th February 2019** at **10:00 am** in the **Boardroom, Monaghan Row, Newry.**

The Members of the Planning Committee are:-

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

# Agenda

## 1.0 Apologies.

## 2.0 Declarations of Interest.

## 3.0 Declarations of Conflicts of Interest in relation to Paragraph 25 of Planning Operating Protocol.

- **Item 6** - LA07/2018/0661/0 - erection of dwelling and domestic garage - between 17a and 17b Hilltown Road, Mayobridge - Members who were present for the entire item and who can take part in the discussion/decision on this application are **Councillors Clarke, Devlin, Larkin, Loughran, McAteer and Macauley**.
- **Item 7** - LA07/2018/0250/F – dwelling and garage on a farm – lands 50m south of 30 Fofanny School Road, Newry - Members who were present for the entire item and who can take part in the discussion/decision on this application are **Councillors Casey, Clarke, Craig, Devlin, Hanna, Larkin, Loughran, McAteer, Macauley and Ruane**
- **Item 8** - LA07/2017/1494/0 - proposed one and a half storey dwelling and detached domestic garage - opposite and north of No. 43 Bryansford Road, Stang, Hilltown - Members who were present for the entire item and who can take part in the discussion/decision on this application are **Councillors Larkin, McAteer, Casey, Clarke, Craig, Devlin, Hanna and Murnin**
- **Item 13** - LA07/2017/1030/0 - site for 100 bedroom hotel and spa - 200m east of No. 25 Greenpark Road, Rostrevor - Members who were present for the entire item and who can take part in the discussion/decision on this application are **Councillors Larkin, McAteer, Casey, Clarke, Devlin, Hanna, Loughran, Craig, Macauley, Murnin and Ruane**
- **Item 25** - LA07/2017/1895/F - Erection of dwelling and detached garage, new landscaping and associated site works in compliance with PPS21-CTY6 - personal and domestic circumstances - Approximately 55 metres South East of No. 6 Molly Road Lower Jonesborough Newry BT35 8JR - **all Members were present for the entire item and can take part in the discussion/decision on this application.**

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### *Minutes for Confirmation*

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## 4.0 Minutes of Planning Committee Meeting held on Wednesday 16 January 2018. (Attached).

 [Planning Committee Minutes 16 January 2019.pdf](#)

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### *For Discussion/Decision*

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

 [Addendum list - 13-02-2019.pdf](#)

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**6.0 LA07/2018/0661/0 - erection of dwelling and domestic garage - between 17a and 17b Hilltown Road, Mayobridge. (Case Officer report attached).**

Rec: REFUSAL

- A request for speaking rights was received from John Young, Collins and Collins. However the written submission was based on information that came in after a recommendation was made and Operating Protocol (point 30) does not allow for new information to be considered unless it was demonstrated that the matter could not have been raised before that time, or that it had not been raised before that time as a consequence of exceptional circumstances. The new submission has not therefore been presented to the Planning Committee for their consideration but the original submission presented to Committee is attached.

[LA07-2018-0661-0.pdf](#)

Page 13

[Item 6 - LA07-2018-0661-O \(Hilltown Road\).pdf](#)

Page 18

**7.0 LA07/2018/0250/F – dwelling and garage on a farm – lands 50m south of 30 Fofanny School Road, Newry. (Case Officer report attached).**

Rec: REFUSAL

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

[LA07\\_2018\\_0250\\_F- Lands 50m South of 30 Fofanny School Road, BT35 5HA.pdf](#)

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[Item 7 - LA07-2018-0250-F submission of support.pdf](#)

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**8.0 LA07/2017/1494/0 - proposed one and a half storey dwelling and detached domestic garage - opposite and north of No. 43 Bryansford Road, Stang, Hilltown. (Case Officer report attached).**

Rec: REFUSAL

- A request for speaking rights was received from O'Callaghan Planning Consultants. However the written submission was based on information that came in after a recommendation was made and Operating Protocol (point 30) does not allow for new information to be considered unless it was demonstrated

that the matter could not have been raised before that time, or that it had not been raised before that time as a consequence of exceptional circumstances. The full submission has not therefore been presented to the Planning Committee for their consideration. The submission included in agenda pack is limited to the information held on file currently.

[LA07\\_2017\\_1494\\_-BryansfordRD\\_Murnion\\_Recon.pdf](#) Page 30

[Item 8 - submission of support \(Bryansford Road\).pdf](#) Page 36

## **9.0 LA07/2018/0820/F - erection of a semi-detached pair of dwellings and associated car parking - lands to the rear of Nos 1 and 2 Sally Gardens and 31-35 Mourne Rise, Newcastle. (Case Officer report attached).**

Rec: REFUSAL

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

[LA07\\_2018\\_0820\\_F\\_Sally Gardens.pdf](#) Page 38

[Item 9 - submission of support \(Sally Gardens\).pdf](#) Page 46

## **10.0 LA07/2018/0221/0 - proposed off-site replacement dwelling and garage - Drumee Road, Castlewellan. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

[LA07-2018-0221-O Drumee Road.pdf](#) Page 55

## **11.0 LA07/2018/0891/F - conversion and extension of existing vernacular structure to form a residential dwelling - 30m SE of 22 Rossglass Road South, Killough, Downpatrick. (Case Officer report attached).**

Rec: REFUSAL

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

[LA07-2018-0891-F Report conversion rossglass.pdf](#) Page 59

[Item 11 - submission of support \(Killough\).pdf](#) Page 69

**12.0 LA07/2018/0915/F - provision of bunk house tourist accommodation and associated site works - land 15m north of 6 Largy Road, Kilcoo, Newry. (Case Officer report attached).**

Rec: REFUSAL

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

📄 *LA07-2018-0915-F.pdf*

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📄 *Item 12 - submission of support (Largy Road, Kilcoo).pdf*

*Page 79*

**13.0 LA07/2017/1030/0 - site for 100 bedroom hotel and spa - 200m east of No. 25 Greenpark Road, Rostrevor. (Case Officer report attached).**

Rec: APPROVAL

- A request for speaking rights has been received on behalf of Michael Graham, WYG Planning; Andrew Bunbury, Park Hood Landscape Architects; John Cole, Cole Partnership and Miceal Tinnelly, Shoreside Developments, in support of the application. **(Submission attached)**.

📄 *LA07-2017-1030-O.pdf*

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📄 *Item 13 - submission of support (hotel and spa).pdf*

*Page 94*

**14.0 LA07/2018/1934/F - proposed new village play park at Ballyholland Play Park, 11 Betty's Hill, Newry. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

📄 *LA07\_2018\_1934\_F- Ballyholland Play Park.pdf*

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

Rec: REFUSAL

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

**16.0 P/2014/0276/0 - site for dwelling and detached garage - approx 275 metres west of 79 Aughnahoor Road, Kilkeel. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list

**17.0 LA07/2018/0788/F - change of house type to approved reserved matters LA07/2015/0799/RM to detached storey and a half dwelling and detached garage and associated siteworks - lands adjacent to and NW of 10 Donaghaguy Road, Warrenpoint. (Case Officer report attached).**

Rec: REFUSAL

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

**18.0 LA07/2017/0810/F - creation of new car park to provide additional car parking facilities at existing commercial premises, erection of bridge across Newry River, erection of perimeter fencing, erection of totem sign and associated site works - approximately 60metres north of 9 Shepherds Way, Carnbane, Newry. (Case Officer report attached).**

Rec: APPROVAL

- A request for speaking rights has been received from George Berry and David Berry objecting to the application. **(Submission attached).**
- A request for speaking rights has been received from Deborah Loughran, MJM Group, in support of the application. **(Submission attached).**

**19.0 LA07/2015/0149/F - change of use of building to provide for storage and distribution of fuel with alterations, and new bulk fuel tank in yard - site between 54 and 58 Edenappa Road, Jonesborough. (Case Officer report attached).**

Rec: REFUSAL

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

**20.0 LA07/2018/0753/F - proposed new "Sure Start" nursery building, with additional 3 No. parking spaces provided by extension of existing car park - lands immediately to the north of Bessbrook Community Centre within "the Pond Field" park at No. 8 Mill Road, Bessbrook. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list

**21.0 LA07/2018/1003/F - proposed change of house type at plot Nos 37, 41-43, 50, 51, 64-66, 71, 76, 77, 82, 91-94, 163, 170, 174-177, 180, 181, 186, 193, 194, 195, 196 and 208 (31 No. total) from these previously approved under LA07/2016/0617/F (see proposal below) lands under construction at Hillcrest Village McKnight's Hill to the North of Church of the Good Shepherd to the rear of Derramore Crescent and to the West of Brooklawns and Millvale Park Bessbrook Newry. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

**22.0 LA07/2018/1103/F - erection of 11 dwellings (Proposed change of house types (T&S) at plot Nos. 197-207 from those previously approved under ref. LA07/2016/0617/F - Plot Nos 197-207 at Hillcrest Village McKnights Hill to the north of Church of the Good Shepherd to the rear of Derramore Crescent and to the west of Brooklawns and Millvale Park. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

📄 [v2LA07-2018-1103-F-McKnight's Hill Change of House Type.pdf](#)

Page 176

**23.0 LA07/2018/1388/F - extraction of glacial aggregate - lands approximately 264m due NE of No. 88 Longfield Road, Forkhill. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

📄 [LA07.2018.1388.F.pdf](#)

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**24.0 LA07/2018/1299/F - upgrade of existing pathway from the South Cairn to Calliagh Berra's Lough, Slieve Gullion, including remedial landscaping and all associated works - pathway located between Calliagh Berra's Lough and South Cairn, Slieve Gullion Mountain, Slieve Gullion Forest Park, 89 Drumintee Road, Meigh. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

📄 [LA07.2018.1299.F Path Slieve Gullion.pdf](#)

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*Development Management - Planning Applications for determination (in closed session)*

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**25.0 LA07/2017/1895/F - Erection of dwelling and detached garage, new landscaping and associated site works in compliance with PPS21-CTY6 - personal and domestic circumstances - Approximately 55 metres South East of No. 6 Molly Road Lower Jonesborough Newry BT35 8JR. (Case Officer report to follow).**



Rec: REFUSAL

- A request for speaking rights has been received from Stephen Hughes, agent; Barney McKeivitt and Brian and Olive Gallagher, in support of the application. **(Submission to be forwarded under separate cover).**

This item is deemed to be exempt under paragraph 1 of Part 1 of Schedule 6 of the Local Government Act (NI) 2014 - information relating to an individual and the public may, by resolution, be excluded during this item of business.

 *Addendum to Case Officer Report No 6 Molly Road, Jonesborough Gallagher2.pdf*

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***For Noting***

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**26.0 Historic Tracking Sheet. (Attached).**

 *Planning HISTORIC TRACKING SHEET - UPDATED 25-01-2019.pdf*

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**27.0 January 2019 Planning Committee Performance Report. (Attached).**

 *JANUARY 2019 Planning Committee Performance Report.pdf*

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**28.0 Report of meetings between Planning Officers and Public Representatives. (Attached).**

 *Record of Meetings report - 13 February 2019 .pdf*

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**29.0 January 2019 Appeals and Decisions. (Attached).**

 *Appeals and Decisions January 2019.pdf*

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**NEWRY, MOURNE & DOWN DISTRICT COUNCIL**

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**Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 16<sup>th</sup> January 2019 at 10.00am in the Boardroom, District Council Offices, Monaghan Row, Newry**

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**Chairperson:** Councillor M Larkin

**Deputy Chairperson:** Councillor D McAteer

**In attendance:** **(Committee Members)**

Councillor Casey  
 Councillor W Clarke  
 Councillor Devlin  
 Councillor G Craig  
 Councillor G Hanna  
 Councillor Harte  
 Councillor K Loughran  
 Councillor J Macauley  
 Councillor M Murnin  
 Councillor Ruane

**(Officials)**

Ms M Ward	Director, Enterprise, Regeneration & Tourism
Mr P Rooney	Principal Planning Officer
Ms A McAlarney	Senior Planning Officer
Ms J McParland	Senior Planning Officer
Mr A Davidson	Senior Planning Officer
Ms N Largey	Legal Advisor
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

**P/001/2019: APOLOGIES AND CHAIRPERSON'S REMARKS**

There were no apologies received.

**P/002/2019: DECLARATIONS OF INTEREST**

There were no Declarations of Interest received.

**P/003/2019: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 19 – MEMBER TO BE PRESENT FOR ENTIRE ITEM**

There were no Declarations in accordance with Planning Committee Protocol Para. 19 received.

**MINUTES FOR CONFIRMATION****P/004/2019: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 19 DECEMBER 2018**

Read: Minutes of Planning Committee Meeting held on Wednesday 19 December 2018. **(Copy circulated)**

**AGREED: On the proposal of Councillor Hanna seconded by Councillor Craig it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 19 December 2018 as a true and accurate record.**

**FOR DISCUSSION/DECISION****P/005/2019: ADDENDUM LIST**

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 16 January 2019. **(Copy circulated)**

**AGREED: On the proposal of Councillor Clarke, seconded by Councillor Loughran, it was agreed to approve the Officer recommendation in respect of the following applications listed on the Addendum List for Wednesday 16 January 2019:-**

- **Item 7** – LA07/2018/0264/F – extension to dwelling – 36 Demesne Heights, Downpatrick  
**REFUSAL**
- **Item 9** – LA07/2018/0482/F – proposed conversion of stone barn into a dwelling with associated works – 60m north of 67 Dechomet Road, Dromara.  
**REFUSAL**
- **Item 10** – LA07/2018/0507/0 – proposed dwelling on infill site – land NW of 69 and opposite 68 Rocks Chapel Road, Kilmore, Crossgar.  
**REFUSAL**
- **Item 12** – LA07/2018/1456/F – upgrade the existing public grassed area to install play park equipment on lands at Meadowside play park, Drumcloon Walk, Meadowlands, Downpatrick.  
**APPROVAL**
- **Item 13** – LA07/2018/1485/F – erection of 2.4 metre high paladin fence and gate – 83 Commons Road, Ballykinler.  
**APPROVAL**
- **Item 17** – LA07/2018/1533/F – proposed new village play area – former Forkhill Army base site – School Road, Forkhill, Newry.  
**APPROVAL**

**DEVELOPMENT MANAGEMENT –  
PLANNING APPLICATIONS FOR DETERMINATION**

**P/006/2019: PLANNING APPLICATIONS FOR DETERMINATION**

The following applications were then determined by the Committee:-

**(1) LA07/2017/1603/0  
(Audio recorded – YES)**

**Location:**

Lands to the west of 34 and 61 Old Railway Close, Leitrim

**Proposal:**

Housing development comprising of 6 no. semi-detached dwellings to complete the Old Railway Close development

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking Rights:**

Mr J Cleland agent, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

Councillor Craig referred to the fact the proposed site was located on a previously developed brownfield and asked for clarity on ownership and maintenance of the site and if the development lines could be re-drawn under the new Local Development Plan.

Ms McAlarney said the proposed development was outside the clearly identified settlement limit and it would be premature to comment on whether the settlement lines could be extended under a new area plan.

Councillor Clarke said there was a demand for housing in the Leitrim area, particularly for first time buyers and that the applicant had included social housing on past housing schemes he had been involved in.

Ms McAlarney said as the applicant was a private developer and not a registered Housing Association, the proposal could not be considered under Policy CTY 5 – Social and Affordable Housing.

Councillor McAteer referred to the boundary line of the site and asked if the Committee was to overturn the Officer's recommendation to issue an approval in respect of Planning Application LA07/2017/1603/0, could conditions be imposed to protect the integrity of the disused railway track. Councillor McAteer also referred to the brownfield site saying he understood the development of brownfield sites should be encouraged by Council.

Ms McAlarney said the disused railway tracks had been incorporated into the Local Development Plan so they would be protected. She continued, saying the development currently on the site had been developed prior to the Local Development Plan being introduced.

Mr Rooney said the site was in the countryside and the fact it was brownfield was not considered an exception within current planning policy PPS21 and consequently significant weight could not be attached to the application in terms of it being a brownfield site. He continued, saying the key issue was that the site was in a rural area and should be treated as such.

Councillor Craig said whilst he acknowledged the need for housing in the area, he proposed accepting the Officer's recommendation to issue a refusal on the basis that the development was outside the settlement limit of Leitrim. Councillor Hanna seconded the proposal.

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

FOR:	5
AGAINST:	6

The proposal was declared 'lost'.

Councillor Clarke proposed to defer Planning Application LA07/2017/1603/0 to allow time for more information to be submitted in terms of the potential for any zoned land within the settlement to be developed in view of the shortage of housing in the area and the demand for young families to remain in Leitrim. Councillor Murnin seconded the proposal.

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

FOR:	8
AGAINST:	1
ABSTENTIONS:	2

The proposal was declared 'carried'.

**AGREED: On the proposal of Councillor Clarke seconded by Councillor Murnin it was agreed to defer Planning Application LA07/2017/1603/0 to allow time for more information to be submitted in terms of the potential for any zoned land within the settlement to be developed. It was agreed Planning Application LA07/2017/1603/0 be brought back to Committee.**

(Councillor Devlin joined the Meeting 10.40am)

**(2) LA07/2018/0444/F  
(Audio recorded – YES)**

**Location:**

5 Creevytenant Road, Ballynahinch

**Proposal:**

Proposed replacement dwelling and erection of detached garage

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Mr M Kee agent, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

Ms McAlarney said whilst Planning would be prepared to accept an increase to the size of the original curtilage, the curtilage as presented in the application was too big and the proposed dwelling was not in keeping with the character of the neighbouring properties.

Mr Kee said he would be prepared to reduce the size and scale of the proposed dwelling along with reducing the size of the curtilage.

**Agreed: On the proposal of Councillor Craig, seconded by Councillor Clarke it was unanimously agreed to defer Planning Application LA07/2018/0444/F to allow the agent and Planners to agree on an acceptable curtilage and design.**

**It was also agreed that officers be delegated authority to impose any relevant conditions and issue the decision.**

(Break 11.05am – 11.20am)

**(3) LA07/2018/1193/0  
(Audio recorded – YES)**

**Location:**

Approx. 215m SW of 15 Ardglass Road, Backaderry, Castlewellan

**Proposal:**

Off Site replacement dwelling with detached garage

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Colin O'Callaghan and Seanin Hanna, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

Discussion took place on the positioning of the proposed dwelling and the original access which the agent said was no longer physically present and if it were to be reconstructed would fail to meet current access standards.

**Agreed:** On the proposal of Councillor Clarke, seconded by Councillor Hanna it was unanimously agreed to defer Planning Application LA07/2018/1193/O to allow for a site visit to take place in order to look at the site in more detail including the original access.

**(4) LA07/2017/0932/O**  
**(Audio recorded – YES)**

**Location:**

Land immediately adjacent to /SW of 32 Dougan's Road, Kilkeel

**Proposal:**

4 no. holiday cottages including fully inclusive design (amended proposal and site address)

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Ian Crockard agent, and DEA Councillor Reilly presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

Ms McParland said a balance was needed between the Council's corporate aims and its planning aims and although she fully supported tourism development in the area, this could not be done to the detriment of the landscape. She continued saying there was plenty of opportunity for tourism development in the Mourne's in terms of the conversion of existing buildings. Ms McParland said policy allowed for expansion within the grounds of a holiday park or guesthouse but the proposed development was not within the curtilage of the neighbouring guest house and therefore it contravened planning policy.

Discussion took place among members. Councillor McAteer referred to Planning Policy PPS 16 and said the reference within the policy to a holiday park was open to interpretation and he would consider a holiday park to be a much bigger development than that proposed. He also referred to the agent's claim that originally the curtilage at No. 32 Dougan's Road extended into the application site.

Ms McParland replied saying the proposed development would open up the potential for ribbon development and additionally it did not meet the principle of the policy.

Ms Largey said the policy under which an application was assessed would have to be applied and it was important the Committee was consistent in its decision.

Councillor Hanna proposed and Councillor Macauley seconded to approve the application contrary to Officer recommendation on the basis that as a Committee, Members were encouraged to use common sense and do right by the area. Councillor Hanna said the

proposal would have a positive economic impact and would also support the Council's Tourism Strategy as this type of development was needed in the area. He added that with a sympathetic design scheme this development could be absorbed into the environment and the right design would address concerns of Planners; the roads infrastructure was good and if approval was granted, conditions could be imposed to ensure the houses were for holiday lets and tourism type activities only.

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

FOR:	5
AGAINST:	7
ABSTENTIONS:	0

The proposal was declared 'lost'.

Councillor McAteer proposed the application be deferred to allow investigations into whether the curtilage originally approved for No. 32 extended into the application site and if this would make a difference to the Officer recommendation.

There was no seconder to Councillor McAteer's proposal.

Councillor Ruane proposed and Councillor Larkin seconded to refuse the application for the reason recommended in the Case Officer report.

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

FOR:	6
AGAINST:	6

The Chairman used his casting vote in favour of the proposal.

**AGREED: On the proposal of Councillor Ruane seconded by Councillor Larkin it was agreed to issue a refusal in respect of Planning Application LA07/2017/0932/O as per the information and recommendation contained in the Case Officer report presented to Committee.**

**(5) LA07/2017/1469/F  
(Audio recorded – NO)**

**Location:**

186 Killowen Road, Rostrevor

**Proposal:**

Change of house type to that approved under LA07/2016/1448/F (for replacement single storey dwelling, refurbished outbuilding for storage purposes and detached carport for 2 cars), replacement outbuilding and detached carport for 2 cars (amended plans)

**Conclusion and Recommendation from Planning Official:**

Approval

**Speaking rights:**

Bernadette Cousins, objecting to the application



**Speaking rights:**

Matthew Crothers, Planning Consultant; Robert Dunlop, agent, and Frank Judge, applicant, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

Ms McParland said that in relation to the main house an increase of 200ml in the overall height of the building was proposed and she did not consider that this would have a significantly greater impact on the character of the area or on residential amenity than the dwelling originally approved. She acknowledged there was an enforcement file currently open and that works were still underway at the site. She drew Members attention to Condition No. 5 of the Case officer report and said this should read "Prior to commencement of development the applicant shall submit a copy of the consent to discharge for the proposed site, should be submitted to the Planning Department within 6 months of the date of the decision notice

Ms Cousins said there were no objections from neighbours to a replacement dwelling, however she said she disagreed with the site level evaluation figures given by the agent and that her property was completely overlooked by the proposed development.

Councillor Hanna said there was arrogance on the part of the applicant to continue building works in spite of an enforcement investigations beginning. Mr Judge said he had asked the Enforcement Officer if he was required to cease building works and he was told that building at the site could continue.

Mr Rooney said they were always mindful of the concerns raised by objectors but they took their decision in light of all the relevant conditions and they considered there would only be minimal changes made. He said the impact of the proposed building on existing residents was a matter of consideration by the Committee.

Councillor Devlin referred to the outbuilding that should have been retained and asked why it had been demolished.

Mr Crothers said it did not have a solid floor and it was structurally problematic and the replacement building would be a lot smaller.

Ms McParland said it was an agricultural outbuilding and in order to replace it, the applicant would have to establish active farming which he could not.

Councillor Hanna asked Ms Largey what the next steps would be in terms of Enforcement. Ms Largey replied that the Applicant could be served with a stop notice or invited to make an application in terms of the impact on the neighbours. She said it was a material consideration and it might be prudent to have a site visit, however ultimately it was up to the Committee to decide how to proceed.

(Councillor Murnin left the meeting 12.55 pm)

**Agreed:** On the proposal of Councillor Ruane seconded by Councillor Hanna it was unanimously agreed to defer Planning Application LA07/2017/1469/F to allow for a site visit so that Members could assess the site in more detail and its impact on neighbouring properties.

**(6) LA07/2018/0504/F**  
**(Audio Recorded - YES)**

**Location:**

Adjacent and north of 21 Aghadavoyle Road, Jonesborough

**Proposal:**

Proposed dwelling and garage (in substitution of that approved under P/2007/0405/RM)

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Barney Dinsmore, agent, in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

Discussion took place regarding whether works had commenced to the access and visibility splays prior to the expiry date of the 31 March 2010 as had been a condition of the planning approval P/2007/0405/RM. Mr Davidson said it was not clear from Google street view if these works had been carried out within the required timeframe. Mr Davidson also said the access had not been created according to conditions and it was in a slightly different position to that previously approved in 2008.

Mr Dinsmore said the applicant had followed advice as outlined in correspondence received from Planning Department and subsequently believed he had preserved his planning permission by ensuring the formation of the access and visibility splays prior to 31 March 2010. Additionally the applicant had provided an invoice dated prior to 31 March 2010 for excavation works carried out.

**AGREED:** On the proposal of Councillor Clarke seconded by Councillor Loughran it was unanimously agreed to issue an approval in respect of Planning Application LA07/2018/0504/F contrary to the information and recommendation contained in the Case Officer report presented to Committee on the basis that documentary evidence proved work had commenced at the site prior to 31 March 2010 and that the applicant had complied with advice as outlined in the letters he had received from Planning Department at that time. It was agreed to accept the amended design and that Planning Officers be delegated authority to impose any relevant conditions.

**SECTION 60 APPEAL****(7) LA07/2018/1074/F  
(Audio Recorded - NO – Closed Session)**

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

**Location:**

Lands opposite No. 1 Ashgrove Avenue, Newry

**Proposal:**

Housing development comprising of 2 No. 4 bedroom houses and 26 No. 2 bedroom apartments.

**Conclusion and Recommendation from Planning Official:**

Refusal

Mr Rooney, Principal Planning Officer, advised the applicant had appealed this application to the Planning Appeals Commission under Section 60 and Planners now had to present a recommendation to Committee on the application.

**Power-point presentation:**

Mr P Rooney, Principal Planning Officer gave a power point presentation on the application with supporting information including a site location plan, an aerial view of the application site, the area plan context and details of the layout and design of the proposed units. He outlined the Planning Department's concerns with the application and the basis for its recommendation, as provided in the case officer's report, as circulated.

**Agreed:** On the proposal of Councillor Craig seconded by Councillor McAteer it was unanimously agreed to accept the Case Officer recommendation to refuse planning application LA07/2018/1074/F as per the information and recommendation contained in the Case Officer report presented to Committee and that the view of Committee would be conveyed to the PAC

**Agreed:** On the proposal of Councillor McAteer seconded by Councillor Ruane it was agreed to come out of closed session.

**FOR NOTING**

**P/007/2019: HISTORIC ACTION SHEET**

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

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

**P/008/2019: PLANNING COMMITTEE MEETING PERFORMANCE REPORT DECEMBER 2018**

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

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

**P/009/2019: MEETINGS BETWEEN PLANNING OFFICERS AND PUBLIC REPRESENTATIVES**

Read: Record of Meetings between Planning Officers and Public Representatives 2018-2019. **(Copy circulated)**

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

**P/010/2019: APPEALS & DECISIONS**

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

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

**P/011/2019: REGISTER OF CONTACTS Q3 OCTOBER – DECEMBER 2018**

Read: Register of Contacts Q3 October – December 2018. **(Copy circulated)**

**AGREED:** It was agreed to note the Register of Contacts Q3 October – December 2018.

The Meeting concluded at 1.50pm.

For confirmation at the Planning Committee Meeting to be held on 13 February 2019.

**Signed:** \_\_\_\_\_ **Chairperson**

**Signed:** \_\_\_\_\_ **Chief Executive**

**Item 5 – Addendum List****Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 13 February 2019**

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

- **Item 10 – LA07/2018/0221/0** - proposed off-site replacement dwelling and garage - Drumee Road, Castlewellan. **APPROVAL**
- **Item 14 - LA07/2018/1934/F** - proposed new village play park at Ballyholland Play Park, 11 Betty's Hill, Newry **APPROVAL**
- **Item 16 – P/2014/0276/0** – site for dwelling and detached garage – approx. 275m west of 79 Aughnahooroy Road, Kilkeel **REFUSAL**
- **Item 20 - LA07/2018/0753/F** - proposed new "Sure Start" nursery building, with additional 3 No. parking spaces provided by extension of existing car park - lands immediately to the north of Bessbrook Community Centre within "the Pond Field" park at No. 8 Mill Road, Bessbrook **REFUSAL**
- **Item 21 - LA07/2018/1003/F** - proposed change of house type at plot Nos 37, 41-43, 50, 51, 64-66, 71, 76, 77, 82, 91-94, 163, 170, 174-177, 180, 181, 186, 193, 194, 195, 196 and 208 (31 No. total) from these previously approved under LA07/2016/0617/F (see proposal below) lands under construction at Hillcrest Village McKnight's Hill to the North of Church of the Good Shepherd to the rear of Derramore Crescent and to the West of Brooklawns and Millvale Park Bessbrook Newry **APPROVAL**
- **Item 22 - LA07/2018/1103/F** - erection of 11 dwellings (Proposed change of house types (T&S) at plot Nos. 197-207 from those previously approved under ref. LA07/2016/0617/F - Plot Nos 197-207 at Hillcrest Village McKNights Hill to the north of Church of the Good Shepherd to the rear of Derramore Crescent and to the west of Brooklawns and Millvale Park **APPROVAL**
- **Item 23 - LA07/2018/1388/F** - extraction of glacial aggregate - lands approximately 264m due NE of No. 88 Longfield Road, Forkhill **APPROVAL**
- **Item 24 - LA07/2018/1299/F** - upgrade of existing pathway from the South Cairn to Calliagh Berra's Lough, Slieve Gullion, including remedial landscaping and all associated works - pathway located between Calliagh Berra's Lough and South Cairn, Slieve Gullion Mountain, Slieve Gullion Forest Park, 89 Drumintee Road, Meigh **APPROVAL**

-0-0-0-0-0-0-



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0661/O

**Date Received:** 1<sup>st</sup> May 2018

**Proposal:** Erection of dwelling and domestic garage

**Location:** Between 17a and 17b Hilltown Road, Mayobridge, Co.  
Down, BT34 2SQ  
The site is located 600m east of Mayobridge.

**Site Characteristics & Area Characteristics:**

The site is an agricultural field accessed from the corner of an existing shared laneway. It slopes from south to north and is bounded by native species hedges to all sides with occasional larger trees. It sits in a line of development comprising four dwellings and an agricultural shed, all of which have frontage onto the laneway. However, in a previous appeal on the site, the PAC found that there was no gap between the frontage of the agricultural shed and the house to the other side of the site (17a), so it was not a valid infill opportunity.



The site is located in a rural area just to the east of Mayobridge and at the NW edge of the Mourne mountains. It is in an unzoned area outside settlement limits on the Banbridge, Newry and Mourne Area Plan 2015. The site is accessed from the B8 Hilltown Road, a Protected Route. There is a Scheduled Monument DOW 047:087 to the south (rath and souterrains). The dominant land uses in the area are residential and agriculture.

#### **Site History:**

A previous similar application (P/2013/0547/O) on this site was refused on 22<sup>nd</sup> October 2013. It was not considered a valid infill opportunity and was refused based on policies CTY1, CTY8, CTY13 and CTY14 of PPS21. This decision was appealed and the appeal was dismissed on 4<sup>th</sup> June 2014. The refusal reasons based on CTY13 and CTY14 were not sustained. However, the Commissioner found that there was no gap in road frontage between the shed and No. 17a, so there is no infill opportunity.

#### **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:**

DFI Roads – No objections in principle subject to the provision of visibility splays of 2.4m x 160m and compliance with Protected Routes policy.

NI Water – Standard informatives.

Historic Environment Division – No objections on archaeological grounds provided the proposed dwelling is a modest single or 1½ storey vernacular style dwelling, existing mature trees surrounding the site are retained and new boundary planting consists of locally prominent native species.

#### **Objections & Representations**

The application was advertised in the local press on 17<sup>th</sup> May 2018 and neighbour notification letters were issued to 3 neighbouring properties on 18<sup>th</sup> May 2018. Following the site inspection, an additional neighbour was notified on 11<sup>th</sup> June 2018. No third party objections or representations were received.

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

The main issues to be considered are the principle of an infill dwelling on the site, integration and rural character, road safety 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 infill 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. Policy CTY1 of PPS21 states that a range of types of development are acceptable in principle in the countryside. This includes the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8 which will be considered below. The design and integration policies (CTY13 and CTY14) will also be considered.

Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development but qualifies this by stating that *“an exception will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements”*. A substantial and built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.

Since the previous appeal, a new dwelling has been built to the north of the site (No. 17b). However, there was already a frontage of three buildings before the new building was erected. The Commission considered that the agricultural shed and Nos. 17a and 19 together met the definition of a substantial and continuously built up road frontage and this remains the case, though Nos. 17b and 23 could now be added to it. However, none of this addresses the reason the previous application and appeal were refused.

Although there is a substantial and continuously built up frontage, the Planning Department agrees with the Commissioner that there is no small gap between the frontage of the shed and that of No.17a. Because of the shape of the laneway, the subject field is set back behind the other development and has no frontage onto the lane other than the width of the field gate. It cannot be the intention of the policy to permit backland development as infill where there is no gap in road frontage. While this site is slightly different as it includes the land where the shed is situated, this shed is present and therefore no gap exists. The result of which means that the previous PAC decision is still applicable.

Finally, there is no consistent support for the proposal in the other development pattern criteria referred to. With regard to plot width, the other residential properties in the built up frontage have an average plot width of 55 metres. The application site touches the shared laneway at only one corner and does not therefore respect the



existing development pattern along the frontage. Since there is no small gap site in the existing frontage, there is no valid infill opportunity. The proposal will instead add to an existing ribbon of development. Paragraph 5.33 of the policy confirms that buildings sited behind the building line can still represent ribbon development if they are visually linked, as in this case.

#### INTEGRATION AND RURAL CHARACTER

Policy CTY8 also requires that infill dwellings meet other planning and environmental requirements. Paragraph 6.70 of the SPPS confirms that "*All development in the countryside must integrate into its setting, respect rural character and be appropriately designed.*" These considerations must be assessed under policies CTY13 and CTY14 of PPS21.

The existing screening around the field together with its set-back from the public road and the shared laneway would enable a modest sized dwelling to integrate satisfactorily as required by policy CTY13. There is also a backdrop of rising land to the rear. I agree with the Commissioner that provided the existing boundary vegetation was retained and augmented, an appropriately sited development of low elevation could be adequately integrated into the countryside and would not appear unduly prominent.

Turning then to rural character, the proposed building would not be unduly prominent in the landscape as discussed above. However, there has been additional development in the immediate area since the previous application was assessed and it is considered that the proposal would add to a suburban style build-up of development when viewed with the surrounding existing buildings. It would also add to a ribbon of development as discussed above. The application is contrary to criteria (b) and (d) of policy CTY14, and also policy CTY8. While refusal on criteria (a) of CTY14 was not sustained in the previous appeal, criteria (b) and (d) are considered material by the current planning authority, especially in view of additional development which has taken place in the intervening period and confirmation in the SPPS that infill dwellings must also meet policy for rural character.

#### 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 DFI Roads has recommended visibility splays of 2.4m x 160m and re-location of electricity poles. This is achievable within the land owned and would ensure no prejudice to road safety.

Policy AMP3 of PPS3 (as amended by PPS21) states that planning permission will only be granted for a development proposal involving access onto a protected route outside settlement limits if it would meet the criteria for development in the countryside and access cannot reasonably be obtained from an adjacent minor road. As this proposal has not met any of the principle tests for development in the countryside in PPS21, it follows that intensification of use of the existing access onto the B8 Protected Route is also unacceptable under policy AMP3.

#### SEWERAGE

It is proposed to deal with sewage effluent by means of a treatment plant. Policy CTY16 states that Planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem. None of the supporting evidence referred to under policy CTY16 has been submitted. Therefore it would be necessary to impose a negative condition in the event of approval that evidence of consent to discharge be submitted to and agreed in writing by the planning authority prior to the commencement of development. As the matter could be dealt with by condition, the failure to submit information on sewage treatment would not warrant refusal under CTY16.

#### AMENITY

The proposed dwelling could be sited and designed so that it would not adversely affect the amenity of any nearby dwellings. This would be assessed in further detail at reserved matters stage if the application was approved.

**Recommendation:** Refusal

#### **Refusal Reasons:**

1. The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not a valid infill opportunity as there is no small gap in the existing built up frontage and it would instead result in addition to ribbon development along the shared laneway.
2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, result in a suburban style build-up of development when viewed with existing buildings, would add to a ribbon of development, and would therefore result in a detrimental change to the rural character of the countryside.
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

**Estate Agents  
Surveyors & Assessors  
Architectural Consultants**

a: 2 Marcus Street, Newry, Co.Down, BT34 1AZ  
t: 028 3026 6602 / 0460 f: 028 30260467  
e: info@collinscollins.biz w: www.collinscollins.biz

**collins**  
& collins

18

Council Planning Meeting 24<sup>th</sup> October 2018

**Item No 10:**

**LA07/2018/0661/O**

**Eileen & Dermot O'Hare  
23 Hilltown Road, Mayobridge**

**Location: - Between 17a & 17b Hilltown Road, Mayobridge  
Proposal – Erection of dwelling and domestic garage**

Dear Council

We refer to the above and enclose below our written statement in respect of this proposal.

We note from the above that the above proposal has been assessed as not a valid infill opportunity because it has been assessed that there is no small gap in the existing built up frontage, we would argue that there is a gap and have shown a selection of photographs from various viewpoints which shows that it clearly appears as a gap in the existing build up.

In respect of this we would go further to suggest that the application site even though it appears on a corner has frontage as it has excess to the agricultural shed and access to the site. While the frontage might be smaller than the other buildings considered in the continuous built up frontage, the site is still comparable in terms of size and scale and positioning of the proposed dwelling can read with the existing to round of this gap. Furthermore we know the Planning Appeals Commission are looking at distance between buildings now as opposed to site frontage and we feel a modest dwelling positioned on this site will read with the other buildings and will reflect a comparable distance between buildings.

Obviously if it was considered to read with Policy CTY 8 in terms of infill policy then CTY 1 is satisfied. With respect to CTY 14, we would refer to the previous appeal (2013/A2017) and from the findings in it, it was considered that the departments reason for using CTY 14 for justification in a refusal were not well founded. We would concur that this is still the case.

Finally in respect of Policy AMP 3, we can advise that this was not an issue in the above mentioned planning appeal and that adequate visibility splays are in place. We also note that the required visibility splays in the appeal application were 2.4 metres by 100 metres and that more than this is in place at the existing access, thus we find it strange that it has now been assessed by Traffic NI to require 2.4m x 160m. In respect of the over intensification of the use on to a protected route we can advise that the applicant is prepared to cease use of the agriculture shed and work from alternative facilities and with this in mind we would feel that there would be no further intensification of use of the access to the Hilltown Road.

We would hope that this application could be reassessed with some common sense as it is obvious that the proposed site does appear as a gap when viewed from all critical viewpoints and would take this opportunity to thank the Council for reassessing this.

Signed



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John Young BSc Hons, AssocRICS  
Collins & Collins

Enc 2No. Images.

12 Hilltown Rd - Google Maps

17/10/2018

Google Maps 12 Hilltown Rd



Image capture, Jun 2016 © 2018 Google

Northern Ireland  
 Google, Inc.  
 Street View - Jun 2016

[https://www.google.com/maps/@54.1802382,-6.2175293,3a,15y,110.34h,92.34t/data=!3m6!1e1!3m4!1svuUJ40wNDB6RiisZMx\\_3LQ!2e0!7!133121816656](https://www.google.com/maps/@54.1802382,-6.2175293,3a,15y,110.34h,92.34t/data=!3m6!1e1!3m4!1svuUJ40wNDB6RiisZMx_3LQ!2e0!7!133121816656)

15 Hilltown Rd - Google Maps

17/10/2018

Google Maps 15 Hilltown Rd



Image capture - Jun 2016 © 2016 Google

Northern Ireland  
Google, Inc.  
Street View - Jun 2016

<https://www.google.com/maps/@54.1805431,-6.2159219,3a,46.6y,125.14h,89.37t/data=!3m6!1e1!3m4!1sL4O-a6qUObzRvw2Ssisvvg!2e0!7!133121816656>



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0250/F

**Date Received:** 23.02.2018

**Proposal:** Proposed dwelling and garage on a farm

**Location:** Lands 50 metres south of 30 Fofanny School Road, Fofannybane, Newry, BT34 5HA

**Site Characteristics & Area Characteristics:**

The application site is located off Fofanny School Road, Fofannybane. This area is rural in character with a number of farm outbuildings and rural dwellings. The site is located adjacent to no. 30 Fofanny. The application site as outlined in red is slightly rectangular in shape with very uneven topography which sees the site have a steep rise upwards from western to eastern boundary. The site is currently used for agricultural purposes.

The red line boundaries consist of a post and wire fence along the western and northern boundaries. The eastern and southern boundaries are undefined and open on to the agricultural field.

The application site is located outside any settlement development limits as designated within the Ards and Down Area Plan 2015. The site is also located within the Mourne Area of Outstanding Natural Beauty.



*View of from the northern boundary along the Fofanny Road.*



*View of from the west of the application site*

### **Site History:**

R/2002/0248/F  
Proposed replacement dwelling  
Permission Granted: 22.05.2002

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

Regional Development Strategy  
Ards and Down Area Plan 2015  
Strategic Planning Policy Statement of Northern Ireland

PPS 2- Natural Heritage (AONB)

PPS 3- Planning Policy Statement 3 – Access, Movement and Parking

AMP 2- Access to Public Roads

AMP 7 Car Parking and Servicing Arrangements

PPS 21- Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10- Dwellings on Farms

CTY13- Integration and Design of Buildings in the Countryside;

CTY14- Rural Character

CTY16 – Development Relying on Non-Mains Sewage

### Supplementary Planning Guidance:

Building on Tradition: A sustainable Design Guide for the Northern Ireland Countryside

### **Consultations:**

Transport NI – have raised no objection to the proposed development



NI Water: Has no objections to the proposal

DAERA Downpatrick- Have stated that the Farm Business ID have merged from two businesses has been in existence for more than 6 years and have been claiming Single Farm payment.

### **Objections & Representations**

1 Neighbour was notified on 28.02.2018 and the application was advertised on 28.02.2018. No objections or representations received.

### **Principle of Development**

The site lies within the AONB and within the countryside as designated in the Ards and Down Area Plan 2015. There are no specific objections to the proposal with regard to the Area Plan.

### **PPS21- Sustainable Development in the Countryside**

Policy CTY1 restricts new development in the countryside, but an exception for farm dwellings which are acceptable if in accordance with policy CTY10 of PPS 21.

#### CTY 10: Dwellings on Farms

The policy states that permission will be granted where all of the following criteria can be met:

- (a) the farm business is currently active and has been established for at least 6 years;
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
- (c) 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. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
  - Demonstrable health and safety reasons; or
  - Verifiable plans to expand the farm business at the existing building group(s).

In regards to criteria a), DAERA has been consulted regarding the proposed development, and has stated that the farm has been in existence for more than 6 years and are currently claiming Single Farm Payment (SFP), Areas of Natural

Constraint (ANC) Payment or Agri Environment Scheme Payment. Therefore, the proposal meets the criteria.

Regarding criteria b), the applicant has submitted their farm maps, the application site can be identified within field number 4, page 2 of the farm maps provided. After conducting a planning history search of the land and applicants name and DARD no. that there have been no development opportunities sold off from the land holdings in the past 10 years. Therefore, the proposal meets the criteria.

In regards to criteria C), the proposed siting is located adjacent and south of no.30 Fofanny School Road. The active farm business ID is under Mr Gerard Morgan. A land and property search was conducted regarding the owner of no. 30 and it has been determined that the Mr Morgan does not own the dwelling and therefore cannot be considered as part of the established group of buildings on the farm.

The existing established group of buildings are located north of no.30 Fofanny School Road. Officers do not consider the application site is visually linked or sited to cluster with an established group of buildings on a farm. In the absence of demonstrable health and safety reasons or variable plans to expand the business the proposal is contrary to criteria C if CTY10.

The SPPS re-emphasises the need for the development to integrate and respect the rural character of the area.

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

The proposal is also contrary to criteria A, B, C and G of CTY13 in that the proposed farm dwelling if permitted would be a prominent feature in the landscape and the site lacks long established natural boundaries, relies primarily on the use of new landscaping for integration and would not visually linked or sited to cluster with an established group of buildings on a farm. The proposal is contrary to CTY 13.

#### CTY 14 – Rural Character

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. In this case, officers consider that the proposed dwelling is unduly prominent in the landscape. Officers consider the proposal is contrary to CTY 14.

#### CTY 16 – Development relying on Non Mains Sewerage

Any approval notice would contain a negative condition for the applicant to provide the Council with the consent to discharge before work commences. The proposal is in general compliance with CTY 16.

Access and Parking

The proposal must accord with AMP3 and AMP7 of PPS3. Transport NI has advised that they have no objection to the proposed development and in view of their comments I consider that the proposed development accords with policies AMP2 and AMP7 of PPS3.

Officer Recommendation

Refusal

**Refusal Reasons**

1. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and policy CTY1 and CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.
2. The proposal is contrary to The Strategic Planning Policy Statement 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 and the site lacks long established natural boundaries, relies primarily on the use of new landscaping for integration and would not visually linked or sited to cluster with an established group of buildings on a farm.
3. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, would be unduly prominent in the landscape.

<b>Case Officer Signature</b>	
<b>Date</b>	
<b>Appointed Officer Signature</b>	
<b>Date</b>	

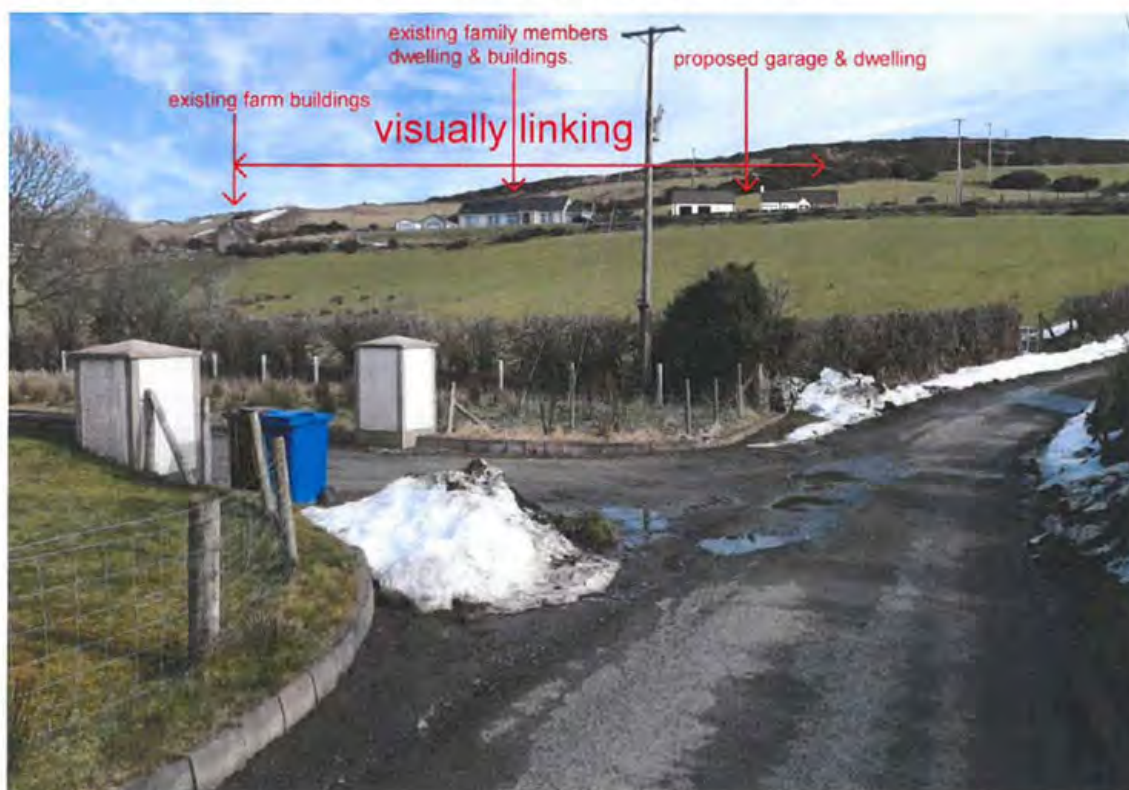
### Presentation submission statement to the Planning Committee.

- The principle of a dwelling on this farm is acceptable to Council Planning.
- The dwelling number 30 as referred to within the Case Officer's report belongs to the applicant's sister Mrs R McVerry nee Rosie Morgan. (This is information already provided to the Case Officer via the submitted P1 application form). This dwelling was granted as a replacement for the original old farm house in May 2002. Members of the Morgan farming family have been in residence at this location for more than 120 years.
- Policy CTY 10 makes provision for a dwelling on a farm provided that no dwellings or development opportunities have been sold off the farm holding within 10 years of the date of application. The rationale of the Officer's interpretation as to why dwelling number 30 cannot be considered as a building on this farm against which to cluster or visually link with is considered an inaccurate interpretation of Policy.
- SPPS and PPS 21 does not prevent other family members owning or residing in a farm dwelling – Policy CTY 10 advises that there is a continuing need for new dwellings on farms to accommodate both those engaged in the farm business and other rural dwellers.
- The proposed dwelling in fact has only some 15 /20 metres of gable separation between it and the existing dwelling on the farm. What Policy CTY 10 does not permit is the positioning of a new dwelling with buildings which are on a neighbouring farm holding, that is an entirely different circumstance from positioning with a family farm member's dwelling as is in this case.
- This proposal cannot be sited within the area between dwelling number 30 and the existing dwelling as within this area is contained the septic tank and soak away of number 30. NIEA /Public Health dictate a separation distance of at least 15 metres between dwelling and septic tank, this is a viable Health and Safety issue that Policy makes provision for.
- The existing laneway accessing the farm yard is not in the total control of the applicants – this laneway is also the only access in existence to the adjacent neighbouring farm and is fully utilised daily by the neighbouring farmer, the applicants cannot avail of a mortgage due to this restraint. A fact borne out by the need of a separate access to dwelling number 30.

**Case Officer Photograph 01** titled "View of from the northern boundary along the Fofanny Road" is actually not taken on or along the Fofanny Road, it is an internal photo taken about point X (as notated on photo 02 below) viewing in a south easterly direction, it is deemed inadmissible and misleading as this is not a vantage or static view point, it does however strenghten our ascertainment of the existing high rising landscape character "back cloth canvas", against and within which the proposed dwelling will be framed.



"View of from the west of the application" - as Case Officer's photo 02.



"View of from the west of the application" Photo 02 with proposal. The proposed as figurately illustrated will not be an unduly prominent feature in the landscape by virtue of grouping and **visually linking** with the existing farm buildings and dwelling number 30, further fortified by the existing high rising landscape character "back cloth canvas", strengthened by the fact that the site is not skyline.

Compliance to Policy only requires "clustering" or "visually linking" NOT both.

The proposed as illustrated will not be a prominnet feature in the landscape.

This photographic depiction demonstrating that the proposed building does not primarily rely on the use of new landscaping for integration.

Mr G Morgan

LA07/2018/0250/F

29

- The existing farm buildings are firmly contained within a 40 -metre cartogram/radius as centred on the footprint location of the existing dwelling number 30.
- It is strongly contested that this proposed dwelling **both** clusters and is visually linked to the existing established buildings totally in compliance to policy.
- Albeit compliance to Policy only requires one of either "clustering" or "visually linking" NOT both. This proposal is visually linked to the existing farm buildings.
- The proposed landscaping consists of a hedgerow and some trees which are primarily to demarcate the new curtilage in a traditional manner. The existing landscape and topography most certainly provide an excellent degree of enclosure, backdrop and screening, ensuring that proposal will integrate, the photographic illustration affirms.
- Council Planning has already granted approval for numerous applications where the same or similar issues were of consideration but deemed acceptable - examples of which are:

LA07/2017/0410/F

LA07/2017/0949/O

LA07/2017/1359/F

LA07/2017/1529/F

LA07/2017/1181/F

### **In Conclusion.**

It is respectfully proposed that Committee grant approval of this application.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/1494/O

**Date Received:** 28.09.2017

**Proposal:** Proposed one and a half storey dwelling and detached domestic garage

**Location:** Opposite and north of No.43 Bryansford Road Stang Hilltown

### **Reconsideration Following Deferral**

This reconsideration should be read in conjunction with the case officers report of 08 March 2018. The application was presented to the meeting of NMDDC Planning Committee on 01 August 2018 with a recommendation to refuse.

The Committee agreed as follows

**AGREED: On the proposal of Councillor Murnin seconded by Councillor Clarke it was unanimously agreed to defer Planning Application LA07/2017/1494/O to allow Planning officials time to investigate the application again and to look at sight lines at 72 Kilkeel Road, Hilltown.**

Following deferral the Planning history on the lane at 72 Kilkeel Road was investigated in terms of the road improvements required to service a dwelling at the applicant's main farm holding at the above address.

There have been a number of recent planning approvals on the subject lane namely 2 no infills approved under LA07/2017/1537/O and LA07/2018/0596/O.

A review of the Outline approvals approved on the lane indicate that following consultation with DFI Roads, negative access conditions were attached. The applicant in each case was not in ownership or control of the lands necessary for the road improvements, but Certificate C in terms of ownership had been completed, serving notice on the requisite owners.

The Planning Office is currently processing a full application under LA07/2018/1723/F for the above mentioned Infill's. The application proposes visibility Spays of 2.4 x 100m to both sides.

In the interests of consistency should an application be submitted for a dwelling for the applicant at the main farm holding at the Kilkeel road, the same negative access condition would apply.

The current application proposes an offsite location for the farm dwelling at Bryansford Road Hilltown. The justification given by the applicant why the farm dwelling cannot be accommodated at the main farm holding is the inability to achieve the road improvements due to non-ownership of lands necessary for the road upgrade. This would not be grounds to allow for the siting of a farm dwelling at an off farm location as it proposed by this application. A negative condition would be attached in this instance.

The Planning Office would therefore recommended refusal of the application for the originally offered reasons

- **The proposal is contrary to The Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.**
- **The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm or that health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.**
- **The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.**

Signed ..... Date





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/1494/F

**Date Received:** 28<sup>th</sup> September 2017

**Proposal:** Proposed one and a half storey dwelling and detached domestic garage.

**Location:** The site is located on lands opposite and north of No 43 Bryansford Road, Hilltown.



**Site Characteristics & Area Characteristics:**

The site is comprised of a 0.62 hectare portion of land cut out of a larger agricultural field, currently used for grazing. The site is positioned above the level of the road and is defined by a steep grass verge which contains a low stone wall, a post and fence with a sporadic hedgerow. The site slopes steadily upwards from the road to a defined, tree lined boundary at the rear. Within the site there is an existing cattle crush and a farm building which is positioned gable end to the road.

The site is rural in character and predominantly agricultural in use with a number of farm holdings and single dwellings dispersed along the road.

**Site History:**

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

**Planning Policies & Material Considerations:**

I have assessed the proposal against the following relevant policies:

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

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

**Consultations:**

Transport NI – No objections

DARDNI – Confirmed 6 years active business and payments claimed

**Objections & Representations**

The following neighbouring properties were notified on 9<sup>th</sup> October 2017:

- 42, 43 and 45 Bryansford Road, Hilltown

The application was advertised in the local press on 18<sup>th</sup> October 2017.

There have been no representations received in relation to this application.

**Consideration and Assessment:**

The proposal is an application for outline planning permission for a farm dwelling and garage.

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

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

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

It is considered that criteria (A) has been met.

The applicant has stated in the P1C forms that no development opportunities or dwellings have been sold off since November 2008. A search on EPIC has not revealed any other planning applications in connections with the business ID, nor any other developments being sold off. There is no evidence to suggest that any development opportunities or dwellings have been sold off since 25<sup>th</sup> November 2008, therefore the proposal meets criteria (b)

The proposed site is located directly west of an existing farm building and a cattle crush. It is considered that the dwelling would not cluster and visually link with an established group of buildings on the farm as only one building exists on site.

From assessment of the farm holding, it appears that the main farm, dwelling and buildings are located at lands surrounding 72 Kilkeel Road, Hilltown. This is confirmed in an accompanying statement with the application.

Criteria C of CTY 10 states that consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- Demonstrable health and safety reasons; or
- Verifiable plans to expand the farm business at the existing It is noted that there are a number of fields which are immediately adjacent to the main farm holding which could allow the proposal to satisfy this aspect of the proposal.

The applicant is seeking approval at the proposed 'out-farm' because the land at Kilkeel Road is accessed via an existing laneway of which the applicant only has right of way. He considers that his lack of ownership of surrounding land prohibits him from creating a new, safe entrance adjacent the main farm complex.

In assessment of this it is not considered that the above justification is sufficient to warrant an approval at an off-site location.

It is considered therefore that criteria (c) has not been met.

### CTY13

As it has been considered above that the proposal fails to comply with Criteria C of CTY 10, the proposal also fails to comply with criteria (G) of CTY 13.

### CTY14

In terms of rural character, the site will be located on land which is positioned above road level. A dwelling would benefit from a backdrop of mature trees, it is noted however, that the applicant seeks a one and half storey dwelling, details, other than a proposed layout, have not been provided in this outline application. It is considered that given the lack of boundary vegetation to the west and the elevated nature of the site, that a single storey dwelling may be more appropriate. However, it is not considered that the rural character of the area would be detrimentally affected should the principle of a dwelling be acceptable.

**Summary**

The proposed farm dwelling does not meet the criteria of the SPPS and policies CTY10 and 13, and is therefore recommended for refusal on this basis.

**Recommendation:**

**Refusal**

**REASONS:**

1. The proposal is contrary to The Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
  
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm or that health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.
  
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

Signed: .....

Date: .....

Signed: .....

Date: .....



The Planning Committee  
 Newry, Mourne and Down Council  
 O'Hagan House  
 Monaghan Row  
 Newry  
 BT35 8DJ

05<sup>th</sup> February 2019

Planning Committee Meeting – 13<sup>th</sup> February 2019

**LA07/2017/1494/O**

**Proposed one and a half storey dwelling and detached domestic garage  
 Opposite and north of No.43 Bryansford Road, Stang, Hilltown, Newry**

The abovementioned planning application has been recommended for refusal. It is to be presented to the Committee on 13<sup>th</sup> February 2019, and it was previously presented on 01<sup>st</sup> August 2018. At that meeting, on the proposal of Councillor Murnin, seconded by Councillor Clarke, it was unanimously agreed to defer Planning Application LA07/2017/1494/O to allow Planning officials time to investigate the application again and to look at sight lines at 72 Kilkeel Road, Hilltown.

O'Callaghan Planning have only recently been instructed in relation to this matter, and this submission is to be read in conjunction with the information previously presented by the applicant and his agent, Mr Cormac McKay. Mr McKay is unavailable to attend the Planning Committee meeting due to previous travel commitments.

**ACCESS CONSTRAINTS AT MAIN FARM GROUPING**

Our starting point has been the issue of sight lines at the family homestead, 72 Kilkeel Road. At present, the sight lines leading to the family farm are inadequate. Planning considers that a "negative condition" could be used to facilitate the granting of a permission at the homestead, and the 5 year lifetime of an approval would be sufficient to enable the applicant to negotiate with two adjoining landowners to secure the necessary access improvements. The applicant considers this is not a practical solution, because he has letters from both landowners confirming they are withholding their consent for the necessary access improvements.





The planning department considers there is reasonable prospect of access improvements being delivered within the lifetime of a planning permission, notwithstanding the aforementioned letters (which we are instructed are in the possession of the planning department).

The planning department considers their position is vindicated in light of the previous granting of planning permissions for dwellings on this laneway. The re-consideration "file note" on the planning portal reads as follows:

*There have been a number of recent planning approvals on the subject lane namely 2 no infills approved under LA07/2017/1537/O and LA07/2018/0596/O.*

*A review of the Outline approvals approved on the lane indicate that following consultation with DFI Roads, negative access conditions were attached. The applicant in each case was not in ownership or control of the lands necessary for the road improvements, but Certificate C in terms of ownership had been completed, serving notice on the requisite owners.*

*The Planning Office is currently processing a full application under LA07/2018/1723/F for the above mentioned Infill's. The application proposes visibility Spays of 2.4 x 100m to both sides.*

*In the interests of consistency should an application be submitted for a dwelling for the applicant at the main farm holding at the Kilkeel road, the same negative access condition would apply.*

Based upon the foregoing, the planning department are confirming that if a new dwelling was proposed at the family homestead, access improvements would be "negatively conditioned". To subsequent issues arise:

- Even if access improvements could be negotiated, this would likely involve financial inducements (to the sellers). Negotiations between three parties are seldom straight forward and any financial settlement would affect the applicant's ability to complete the dwelling; and
- Assuming access improvements could be negotiated, a new dwelling would be un-mortgage-able owing to the shared lane and the proximity to working farm buildings.



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 agus an Dúin**

**Newry, Mourne  
 and Down**  
 District Council

**Application Reference:** LA07/2018/0820/F

**Date Received:** 22.05.2018

**Proposal:** The application is for full planning permission for the erection of a semi-detached pair of dwellings and associated car parking.

**Location:** The application site is located within the settlement limits of Newcastle as designated in the Ards and Down Area Plan 2015.



Site location plan

**Site Characteristics & Area Characteristics:**

The site outlined in red comprises a plot of land located between Nos 1 and 2 Sally Gardens and 31-35 Mourne Rise. It lies adjacent to the Castlewellan Road which is vacant and slightly overgrown at present. Sally Gardens comprises a small cul-de-sac of 6 dwellings (3 pairs of 2 storey semi-detached dwellings). Mourne Rise is a larger development and cul-de-sac of Mourne Rise to the east.

The site is relatively flat whereby the boundaries include a mix of fencing, planting and a wall. A grass verge and footpath run along the frontage of the site. The curtilage of No.1 Sally Gardens accommodates a detached garage which runs to the side and rear of No 1, running parallel to the main Castlewella Road (which is a protected route). Several properties also include sheds and outhouses to the rear of their properties. A pedestrian access/private right of way, also runs along the rear of no's 33-35 Mourne Rise which provides access to the rear of these properties.

The site is located within the development limits of Newcastle on land regarded as white-land as identified in the Ards and Down Area Plan 2015. The site is located off the Castlewella Road, which is predominantly residential in character and is characterised by 2 storey semi-detached and terraced units.



#### Site History:

##### Relevant to the site

R/2013/00013/F - Land to the rear of 1 and 2 Sally Gardens and 31 to 35 Mourne Rise, Erection of 2 dwellings, full, approval

R/2007/0099/F- Land to the rear of 1 and 2 Sally Gardens and 31 to 35 Mourne Rise, Erection of 2 dwellings, full, approval, 19-03-08, Applicant: P and S Brannigan,

R/2005/1586/F- Lands adjacent to 1 Sally Gardens, Erection of 2 dwellings, full, refusal, 09-06-06, Applicant: P and S Brannigan,

R/00/0728/O- Lands adjacent to 1 Sally Gardens, 1 dwelling, outline, withdrawn, 29-01-01, Applicant: S Brannigan,



**Planning Policies & Material Considerations:**

Policy- RDS, Ards and Down Area Plan 2015, PPS1, PPS3, PPS7, PPS12, Creating Places, DCAN8

**Consultations:**

NI Water – Statutory response  
DFI Roads – No objections subject to conditions  
NIEA Water Management – No objections  
Historic Environment Division – No objections  
Rivers Agency – Contrary to Policy revised PPS 15

**Objections & Representations**

In line with statutory requirements twenty five neighbours have been notified on 14.06.2018. The application was advertised in the Mourne Observer and the Down Recorder on 13.06.2018.

**Representations**

13 letters of objection have been received in relation to the proposal, some of these objection letters are from the same household, however, they are from 7 different addresses and thus the application would have to be presented to Planning Committee.

The main issues are:

- Development would close out light and sun to the rear of their properties
- Development would impact on the enjoyment of their homes through loss of privacy

**Consideration and Assessment:**

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In practice this means that development that accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise.

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

As stated above the site is located off the Castlewellan Road between the developments of Sally Gardens and Mourne Rise.

There is history on the site by way of two previous approvals on this site and this application has been submitted as a renewal application. The most recent previous application R/2013/0021/F was approved 25/06/2013 and at the time of submitting this application there was an extant permission for two dwellings on this site. This permission has since expired.

The house type and layout are identical to the previous scheme submitted. This includes the erection of a pair of semi-detached dwellings which are 2 storey high with a roof-space conversion (3 floor areas) and a single storey return to the rear. These dwellings have a ridge height of approx 8.6m (eaves height of approx 5.65m) and are finished in wet dash render walls, grey concrete roof tiles, and white upvc windows. They front the Castlewellan Road, however due to the shape of the site they are slightly staggered whereby the separation distance to the road varies. Each dwelling has an integral garage with parking and a turning area to the front and amenity space to the rear. The separation distance to the remaining boundaries also varies due to the shape of the site and siting of the units. Levels are provided and a new timber fence (1.8m high) is proposed to be erected along each boundary. The grass verge and footpath along the frontage of the site is shown to be retained either side of the entrance drives. Taking into account the existing character and house types and history of the site, no objections are offered to the principle of such units on this site.

The character of the area may have changed since the completion of the social housing development opposite the site. This should not preclude development of the site subject to complying with the relevant policies and no objections from statutory consultees. Thus as this is a renewal of a previously approved proposal, the issues for consideration for the Council relate to any change in circumstances since the last approval.

As part of this application consultations have been carried out with DFI Roads, NIW, NIEA WMU, Rivers Agency and Historic Environment Division.

Revised PPS 15 – Planning and Flood Risk is a policy that was introduced in September 2014. The Strategic Planning Policy Statement for NI (SPPS) was also introduced in September 2015 and Flood Risk is covered under section 6.99 of the SPPS. Both these policies were introduced after the granting of the previous approval and thus presents new circumstances on which to base assessment of the proposal.

#### SPPS

Para 6.105 refers to the Regional Strategic Objectives for the management of flood risk which includes; to prevent inappropriate new development in areas known to be at risk of flooding, or that may increase the flood risk elsewhere and to ensure that the most up to date information on flood risk is taken into account when determining planning applications amongst other objectives that are listed under para 6.105.

#### Revised PPS 15

Policy FLD 1 of PPS 15 addresses development in fluvial and coastal flood plains and states that normally, development will not be permitted within the 1 in 100 year fluvial flood plain (AEP of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%). Paragraph 5.3 of PPS 15 states that all planning applications, including those for the renewal of planning permission, will be determined with reference to the most up to date flood risk information available to the Planning Authority. Paragraph 5.4 states that the planning authority will consult Rivers Agency on planning applications where it appears that flood risk is a material consideration.

Rivers Agency have been consulted regarding the proposal and have commented that a culverted designated watercourse known as the Murlough Drain MW3204 flows within the site along the eastern boundary. The site is located within the flood plain of the Burren River but in a defended area protected by Flood Defence 1044.

### **FLD 1 - Development in Fluvial (River) and Coastal Flood Plains**

DfI Rivers PAU deems the proposal to be contrary to policy.

The above Policy states "*Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP7 of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy.*

*Where the principle of development is accepted by the planning authority through meeting the 'Exceptions Test', as set out below under the Exceptions heading, the applicant is required to submit a Flood Risk Assessment for all proposals. Planning permission will only be granted if the Flood Risk Assessment demonstrates that:*

- a) All sources of flood risk to and from the proposed development have been identified; and*
- b) There are adequate measures to manage and mitigate any increase in flood risk arising from the development.*

#### *Exceptions - Defended Areas*

- a) Development of **previously developed land** protected by flood defences that are confirmed by DARD, as the competent authority, as structurally adequate and provide a minimum standard of 1 in 100 year fluvial or 1 in 200 year coastal flood protection".*

This site is not previously developed land and is within a defended area. No exception applies to this site. The proposed development for 2 dwellings is not relevant to Overriding Regional or Sub-Regional Economic Importance.

Paragraph 6.16 (Justification and Amplification) of Revised Policy PPS 15 States

*"6.16 There will be a presumption against development of green field sites in defended areas. As well as exposing more people and property to the residual flood risk, this form of development could remove valuable flood storage should the defences overtop or breach".*

DfI Rivers PAU deems the proposal to be contrary to the current Revised Planning Policy Statement 15 dated September 2014.

### **FLD 2 – Protection of Flood Defence and Drainage Infrastructure**

A culverted designated watercourse known as the Murlough Drain MW3204 flows within the site along the eastern boundary. The policy states "*Planning authority will not permit development that would impede the operational effectiveness of drainage infrastructure or hinder access to enable their maintenance".*

Paragraph 6.32 requires a working strip of 5-10m in order to facilitate maintenance. The policy states "*The working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary, and be provided with clear access and egress at all times".*

The Site Plan Drawing 0249/L015 does not provide a working maintenance strip in accordance to this sub-policy FLD2.

**FLD 3 - Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains.**

The proposal does not exceed the thresholds to require a Drainage Assessment. It is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site. Consideration should be given to the use of SuDs as the preferred drainage solution.

**FLD 4 – Artificial Modification of Watercourses.** Not applicable to the already culverted Murlough Drain MW3204 flows within the site along the eastern boundary

**FLD 5 – Development in Proximity to Reservoirs.** The current Revised Planning Policy Statement 15 dated September 2014 now includes this sub-policy for Development in Proximity to Reservoirs. DfI River's Flood Maps (NI) for Reservoir inundation indicate that this site is in an area of inundation emanating from Lough Island Reavy Reservoir and should therefore have Policy FLD 5 applied to it.

Paragraph 6.120 of the SPPS advises that "New development within the flood inundation area of a controlled reservoir can only be justified where the condition, management and maintenance regime of the reservoir are appropriate to provide assurance regarding reservoir safety". Accordingly, planning permission for new development should only be granted subject to such assurance being provided by a suitably qualified engineer and supported by DfI Rivers, as the responsible body for the management of flood risk".

There is insufficient information submitted to demonstrate that FLD 5 has been met.

Given this change in policy since the previous approvals on site, the application is now contrary to FLD 1, FLD 2 and FLD 5 of Revised PPS 15.



NI Flood Map

## **Planning Policy Statement 7 Quality Residential Environments**

Planning Policy Statement 7 Quality Residential Environments (PPS7) sets out planning policies for achieving quality in new residential development. Policy QD1 of PPS7 states that in established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.

Within Policy QD1 of PPS 7 there is a requirement for all proposals for residential development to conform to the listed criteria A - I.

Notwithstanding the issues above. In terms of the application and PPS 7, this is a renewal application for full permission. It is acknowledged that at the time of submission there was an extant permission on the site which has since expired. The plans submitted are the same as those previously approved. The side gables of the main dwelling are blank, thus will not result in any unacceptable direct overlooking over the adjoining properties to either side, while it is also considered the single storey return to the rear will not result in any unacceptable impact due to its nature and the existing and proposed boundary treatments. In addition it is considered the units are located a sufficient distance to the rear boundary in line with current guidance to prevent any unacceptable impact. Taking into account the letters of objection which do not carry determining weight in this case, and given the previous approval on the site, the design and layout would therefore be deemed acceptable.

### **Access, Movement and Parking**

PPS 3 sets out the planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning. DFI Roads have been consulted and have offered no objections to the proposal with conditions attached.

### **Conclusion**

With the introduction of new policy since the previous approval, the proposal is now considered to be contrary to policies SPPS and revised PPS 15 – FLD 1, 2 and 5.

### **Recommendation:**

Refusal is recommended.

### **Refusal Reasons:**

- 1.) The proposal is contrary to the Strategic Planning Policy Statement 2015 (SPPS) and Revised Planning Policy Statement 15, policy FLD 1 in that the site is within the Q100 fluvial floodplain where development is not permitted and it cannot be demonstrated that the proposal constitutes an exception to the policy.
- 2.) The proposal is contrary to the Strategic Planning Policy Statement 2015 (SPPS) and Revised Planning Policy Statement 15, policy FLD 2 in that the development would impede the operational effectiveness of flood defence and drainage infrastructure

and hinder access to enable their maintenance, as the proposal does not provide a working maintenance strip.

- 3.) The application is unacceptable as insufficient information has been submitted regarding the site's proximity to reservoirs to enable the Authority to make an informed decision on the proposal.

Case Officer Signature

Date

Appointed Officer Signature

Date

## Planning Application – Sally Gardens – LA07/2018/0820/F

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### History of the applications on site and timeline of critical events

- Planning Application LA07/2018/0820/F is a renewal of planning permission R/2013/0012/F;
- R/2013/0012/F expired on 24<sup>th</sup> June 2018;
- LA07/2018/0820/F was submitted on 21<sup>st</sup> May 2018 and stamped received by the Council on 22 May 2018 – approximately 5 weeks prior to the expiry of R/2013/0012/F;
- At the time the application was made the applicant had a valid fallback position – to erect the development approved which is the same as that for which a renewal is sought under LA07/2018/0820/F;
- Despite having the application in good time, the Council did not consult with DfI Rivers until 13<sup>th</sup> June – 23 days after the submission of the application – this was done despite the Council knowing of the impending expiry of the extant planning permission;
- DfI Rivers responded to the consultation request by the Council on 25<sup>th</sup> June which is within their response time limit;
- Had this consultation request by the Council been made in a timelier manner for instance 1 week after the submission of LA07/2018/0820/F (on 28<sup>th</sup> May) and Rivers Agency had responded in the same timeframe (12 days) they would have responded raising the issues now apparent on 11<sup>th</sup> June;
- A response on 11<sup>th</sup> June would have allowed the applicant approximately 2 weeks to commence development under R/2013/0012/F and hence secure his permission and the development afforded. As the applicant is a building that would have been ample time to have made a valid start on site.
- The Council has a history of approving development for renewal of applications after the expiry of previous planning permissions – P/2011/1062/F expired on 10<sup>th</sup> May 2012 and was granted planning permission subject to a 3 year time period – it expired on 9<sup>th</sup> May 2015. LA07/2015/0141/F was submitted on 14<sup>th</sup> April 2015 approximately 5 weeks prior to the expiry of P/2011/1062/F and was not approved until 15<sup>th</sup> May 2018. This kind of situation does exist within the Council area and is not uncommon.

### Planning Policy

- The site is within a 1 in 100 year floodplain but is within a defended area, meaning that DfI Rivers' flood defenses protect the site from flooding – this means that in fact it does not flood;
- These flood defenses have been utilised in the past to create the Burren Meadow development directly opposite the application site – this contains 148 properties within the floodplain;
- Within defended areas there is an exception which allow development to take place – that is for previously developed land;

- This site is surrounded on all sides by development it is within the settlement limited of Newcastle and on this basis should be considered to be previously developed land;
- Further the site has benefitted from planning permission since 2007 and has a long history of planning permissions granting development rights to the applicant which furthers the argument that the site is previously developed land;
- The site has not been developed because it forms part of the applicant's pension plan – he will develop it prior to retirement, and will the return will form part of his retirement fund;
- Where the policy fails is that it does not define "previously developed land" in the glossary which allows the Council to interpret the planning policy and define what that means;
- In this instance, given the long planning history on site; the fact that the site is surrounded by development; the fact that the site does not actually flood due to Dfl Rivers' flood defenses; the fact that the application was made within the lifetime of the extant planning permission create a unique set of circumstances which will be difficult to replicate and which mean that the site is "previously developed land",

#### Other planning issues

- There are no other objections from consultees only the objections raised by Dfl Rivers;
- Their first objection reason is dealt with above;
- Their consultation response adds that there will be a presumption against development of greenfield sites in defended areas – this site is not a greenfield site, it is a brownfield site where the thrust of planning policy indicates that development should take place;
- It is Dfl Rivers responsibility to ensure that their flood defenses are adequate and do not overtop or breach it is incorrect to inhibit development in case Dfl Rivers do not meet their statutory obligations and it is incorrect for them to seek to divert that responsibility onto the public;
- The 2<sup>nd</sup> objection is in relation to the protection of drainage infrastructure which requires a minimum 5m maintenance strip – this can be accommodated through an amended scheme;
- The 3<sup>rd</sup> comment can be dealt with through the production of a SuDs drainage solution;
- The 4<sup>th</sup> comment is not an objection;
- The 5<sup>th</sup> comment can be dealt with through discussions with the reservoir owner and Dfl Rivers.

#### Summary

- If the principle of the site constituting an exception under "previously developed land" the other matters can be resolved;
- As set out above had the Council consulted Dfl Rivers in a prompt manner the issues would have been flagged up in time for the applicant to act on the previous planning permission, despite that critical error the site is "previously developed land" within a defended area, which in reality does not flood, and is therefore an exception to policy FLD1. The other matters can be addressed through a Flood Risk Assessment, an amended scheme with SuDs drainage solution and discussions with a third part reservoir owner and Dfl Rivers.
- This application therefore ought to be granted planning permission.





## APPROVAL OF PLANNING PERMISSION

### Planning (Northern Ireland) Order 1991

Application No: **P/2011/1062/F**

Date of Application: **6th December 2011**

Site of Proposed Development: **12a Camlough Road  
Newry  
BT35 6JP**

Description of Proposal: **Proposal to vary condition 2 of Approved Reserved Matters P/2008/0876/RM, to allow commencement of site works and substructure for 1 new dwelling and garage.**

Applicant: Mr Gerry King  
Address: 12a Camlough Road  
Newry  
BT35 6JP

Agent:  
Address:

Drawing Ref: 01

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

### GRANTS PLANNING PERMISSION

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

1. As required by Article 34 of the Planning (Northern Ireland) Order 1991, the development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: Time Limit.

Application No. P/2011/1062/F

CR






2. None of the dwellings permitted under P/2008/0876/RM shall be occupied until the existing buildings, coloured green on the approved plan date stamped 8th December 2011 are demolished, all rubble and foundations removed and the site restored in accordance with the details on the approved plans.

Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site.

#### Informatives

1. The applicant is advised that this decision notice relates only to condition Nos . 1 and 2 pertaining to application reference P/2008/0876/RM and that all other conditions and informatives attached to that approval remain valid and should be adhered to.
2. This approval notice relates to drawing no. 01 which was received on 8th December 2011.

Dated: 10th May 2012

Authorised Officer 



Liam Hannaway  
Chief Executive



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

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## APPROVAL OF PLANNING PERMISSION

Planning Act (Northern Ireland) 2011

Application No: LA07/2015/0141/F

Date of Application: 14th April 2015

Site of Proposed  
Development: **12A Camlough Road  
Newry.**

Description of Proposal: **Renewal of planning permission P/2011/1062/F, for  
replacement of dwelling and domestic garage (12a  
Camlough Road) and erection of five new dwellings and  
domestic garages.**

Applicant: Mr Gerry King  
Address: 12a Camlough Road  
Newry  
BT35 6JP

Agent:  
Address:

Drawing Ref: 01 (Rev 1), 02, 03, 04, 05, 06 and 07

The Council in pursuance of its powers under the above-mentioned Act hereby

### GRANTS PLANNING PERMISSION

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

1. As required by Article 61 of the Planning (Northern Ireland) Act 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

**Oifig an Iúir  
Newry Office**  
O'Hagan House  
Monaghan Row  
Newry BT35 8DJ

**Oifig Dhún Pádraig  
Downpatrick Office**  
Downshire Civic Centre  
Downshire Estate, Ardglass Road  
Downpatrick BT30 6GQ

0300 013 2233 (Council)  
0300 200 7830 (Planning)  
council@nmandd.org  
www.newrymournedown.org

**Freastal ar an Dún  
agus Ard Mhacha Theas**  
**Serving Down  
and South Armagh**



2. None of the dwellings hereby permitted shall be occupied until the existing buildings, coloured green on the approved plan drawing No 01 (Rev 1) date stamped 15<sup>th</sup> May 2018 are demolished, all rubble and foundations have been removed and the site restored in accordance with the details on the approved plans.

Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site.

3. The development hereby approved shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development, in accordance with details to be submitted to and approved by the Newry, Mourne and Down District Council.

Reason: In the interests of public health.

4. The development hereby approved shall not be occupied until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the Newry, Mourne & Down District Council.

Reason: To safeguard the site and adjacent land against flooding and standing water.

5. All services within the development shall be laid underground.

Reason: In the interests of visual amenity.

6. No construction to be made, trees planted or other obstruction made within 3 metres (or 1.5 times the depth, whichever is greater) of sewers, or 4 metres (or 1.5 times the depth, whichever is greater) of watermains. A diversion may be necessary, consultation with Northern Ireland Water is required at an early design stage.

Reason: To prevent disturbance/damage to existing sewers/watermains and in the interests of public safety.

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

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

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

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



9. The existing natural screenings of the site, as indicated on drawing No. 02 date stamped 15<sup>th</sup> April 2015 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

10. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of completion of the development it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

11. No development shall take place until the full details of any retaining walls proposed within the site have been submitted to and approved in writing by the Planning Authority. The retaining walls shall be constructed prior to the occupation of any part of the development hereby approved.

Reasons: In the interests of safety.



## Informatives

Environmental Health has raised concerns regarding potential noise from the adjacent business and motorway. Even though such noise issues do not warrant the refusal of this planning application, any potential occupants should be made aware of any potential noise issues from surrounding developments.

Although it has been determined above if NIW infrastructure is within 20m of your proposal, consultation with NIW is required at an early design stage by means of a Predevelopment Enquiry to determine how your proposal may be served. Waste Water Treatment facilities (Newry) are presently available to serve the proposal. The proposer to contact NI Water if they wish to requisition NIW for a Surface Water (Storm) Sewer extension to the proposed site.

No surface water sewer within 20m of your proposal, you may wish to apply to NIW to requisition a surface water sewer to serve your proposal if it will serve more than 1 property to discharge roof drainage.

DfI Rivers PAU note that the 150mm outlet pipe from the Hydro-Break to the proposed discharge point is laid at a 1 in 200mm gradient. DfI Rivers PAU wish to inform the applicant of the possibility of siltation within the 150mm outlet pipe, thus reducing the volume of discharge and increasing the potential flood risk. The applicant must satisfy himself that a self-cleansing velocity can be achieved within the pipework to prevent future siltation.

Under the terms of Schedule 6 of the Drainage (NI) Order 1973, any proposal either permanent or temporary, in connection with the development which involves interference with any watercourses such as culverting, bridging, diversion, building adjacent to or discharging storm water etc requires the written consent of Rivers Agency. This should be obtained from the Eastern Regional Office at Ravarnet House, Altona Road, Largymore, Lisburn BT27 SQB.

It is noted that the entire site is in the ownership and control of the applicant and no works have been approved in any third party land. However, it is advised that no works of any nature should impinge/interfere or encroach with the adjacent railway embankment or railway line. The developer should consider consulting Northern Ireland Transport Holding Company prior to any landscape planting adjacent to the railway embankment.

It should be brought to the attention of the applicant that the responsibility for the accuracy, acceptance of the Drainage Assessment and implementation of the proposed flood risk measures rests with the developer and their professional advisors. (refer to section 5.1 of PPS 15).

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

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

Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers



Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

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

Dated: 15th May 2018

Authorised Officer



# Comhairle Ceantair an Iúir, Mhúrn agus an Dúin

## Newry, Mourne and Down District Council

**Application Reference:** LA07/2018/0221/O

**Date Received:** 1st February 2018

**Proposal:** Proposed off-site replacement dwelling and garage

**Location:** 42 Drumee Road and opposite 67 Drumee Road, Castlewellan.



### Site Characteristics & Area Characteristics:

The site is located along the minor Drumee Road, Castlewellan. It is comprised of 0.2 hectare portion of land, which contains a two storey traditional dwelling, with a yard area to the front, along with the proposed site which is comprised a portion of an agricultural field which is located south of the existing dwelling. The dwelling to be replaced is attached to an existing outbuilding which does not form part of the application site.





The dwelling appears intact, with roof and external walls in place. The window and door openings of the dwelling are also present. The dwelling, however, is currently unoccupied.

The proposed land for the new dwelling slopes down from No.42 in a southerly direction towards Newcastle Road. It is defined along Drumee Road by a stone wall and grass verge, with a mature hedgerow along the eastern boundary.



The site is located outside the settlement development limit of Castlewellan and is surrounded by agricultural land predominantly used for grazing. There are however, a number of single dwellings dispersed throughout the surrounding area.

### **Site History:**

R/2005/0398/F – 42 Drumee Road, Castlewellan  
Demolition of existing buildings and construction of 3 dwellings for holiday accommodation and associated domestic stables. WITHDRAWN

R/2006/0491/F – 42 Drumee Road, Castlewellan  
Refurbishment of existing buildings together with extensions to provide 3 new dwellings for holiday accommodation with associated domestic stables. GRANTED

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

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS 21 (CTY 3), in addition, to the history and any other material consideration.

The application was advertised initially in the local press on 28.02.2018

The following neighbours were notified of the proposal

- 44 and 67 Drumee Road, Castlewellan

**Consultations:**

In assessment of the proposal a consultations was carried out with Transport NI to which no objections have been received.

**Objections & Representations**

No objections or representations have been received.

**Consideration and Assessment:**

The proposal seeks outline planning for the erection of a replacement dwelling.

The Strategic Planning Policy Statement for NI Ireland (SPPS) is material to all decisions on individual applications. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council Area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS.

Paragraph 6.73 of the SPPS provides strategic policy for residential and non-residential development in the countryside. In respect of replacement dwellings the policy is broadly consistent with the policies set out in PPS21.

Policy CTY 3 of PPS 21 provides the policy context and states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

In assessment of this initial criterion, it is considered that the dwelling exhibits the essential characteristics of a dwelling and all external structural walls are substantially intact.

Policy CTY 3 provides criteria for instances where a non-listed vernacular building is present – this is not the case at this site.

In addition, to the above, proposals for a replacement dwelling will only be permitted where 5 additional criteria are met, in assessment of these, the proposal will not be located within the existing curtilage of the existing dwelling. It is noted in the submitted Design and Access Statement that the off-site location for the dwelling has been chosen to allow the replacement opportunity to be moved out of the farm yard complex as the current position is located beneath the adjacent laneway which serves a dwelling and adjacent farm land.

In assessment of this, it is noted that the available land surrounding the existing dwelling and agricultural buildings is elevated above road level and may not be suitable on the grounds of integration, in that a dwelling in this location would be more conspicuous than that proposed.

In assessment of the proposed off-site location it is considered that a suitably designed dwelling could integrate in the site, provided a low elevation / ridge height is proposed, this is to ensure that the dwelling would not appear conspicuous in the landscape and when viewed on approach from the surrounding roads, it would group with the adjacent buildings.

It is considered that all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality and access to the public road would not prejudice road safety or significantly inconvenience the flow of traffic.

As this is an outline proposal, the design of the proposed dwelling is not before the planning office, however, it is considered that a suitably designed dwelling with a maximum ridge height of 6.5m above finished floor level could be accommodated with the site

**Summary**

Having assessed the proposal against the various planning policies and material considerations which apply to the application and taking into account the input of the Councils consultees, it is determined that the proposal is acceptable in planning terms and approval is recommended subject to the following conditions.

**Recommendation:** Approval

**Conditions:** Time, demolition, access, ridge height, landscaping

Signed .....

Date .....

Signed .....

Date .....



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0891/F

**Date Received:** 13<sup>th</sup> June 2016

**Proposal:** Conversion and extension of existing vernacular structure to form a residential dwelling

**Location:** 30m SE of 22 Rossglass Road South, Killough, Downpatrick



### Site Characteristics & Area Characteristics

The site is a roadside site accessed through No 22 Rossglass Road South, which abuts the site along the north-western boundary. The site is comprised from a smaller portion of 2 separate agricultural fields, 2 detached stone buildings and a detached rendered single storey garage. The garage is within the north-west corner, a short distance from the detached single storey dwelling of No 22. The fields are accessed from Rossglass Road South through a small open drive and established field gate within the north-west Corner adjacent to the garage and No 22.



The larger field boundaries are defined by open wire fencing along the north the northern boundary shared with the public road, the west and southern boundaries that define the boundary between the agricultural lands and the shore. The site proposed has no boundary definition as it is cut from 2 larger fields. There is an internal boundary division that includes an open wire fence which connects to the western stone building from the field gate located approximately 20m to the north. The division of the 2 fields continues with a stone ditch and mature native hedge which continues in a south-south eastern direction. This provides a physical link between the 2 stone buildings before continuing south-south-west to the shore.



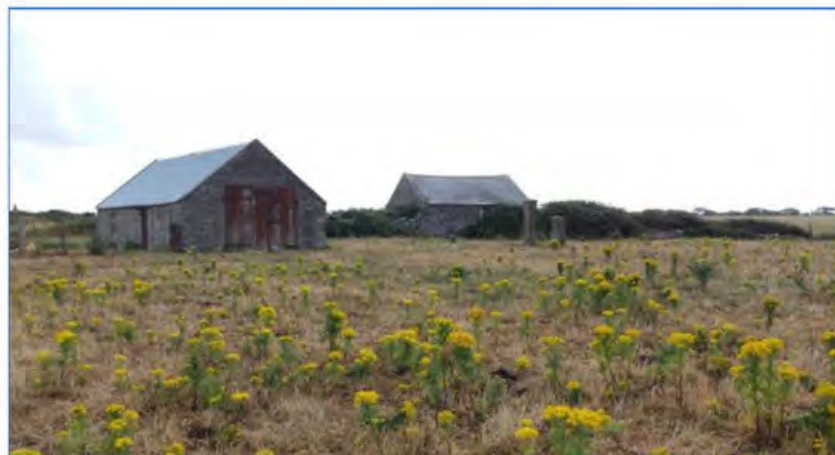
The buildings included within the site are 3 detached structures, 2 of which are included within the proposal. The single storey detached garage within the north-west corner of the site has been excluded from the details of the proposal but for the purposes of the application and proposed access arrangements, this building and the adjacent drive of No 22 has been included within the red line of the site location.



The buildings to the south and east of the garage include a larger rendered stone and block work building with a pitched roof finished with metal corrugated sheeting and a smaller building of finished with render and a pitched slate roof.



View from the Rossglass Road



View from the south west





Both buildings are agricultural buildings which store machinery and materials.

The larger of the 2 buildings, from the external and internal inspection, appears to have been mended over time. The structure includes block work, render, new roof structure. This building has a large opening with large metal doors on its south west facing façade while the north facing façade, which could be described as the 'front' has a small window, secured by a hinged wood shutter, and a wooden door through which internal inspection was facilitated. The north east façade has 3 small holes within the upper portion of the side wall which may act as ventilation to the agricultural building. The south-west façade of the buildings has 2 small ventilation holes near the roof.



The smaller building, finished with a slate roof has one large accessible opening along its narrow south east facing façade which has a large makeshift metal door which was opening at the time of the site inspection. The building also has, what appears to be, a door along the south east facing façade and is partially covered by the hedging that divides the 2 fields.

Within the southern field there are single standing concrete posts which may have formed part of a previous division while within the northern field is a large concrete bath like structure which may act as a trough and is overgrown at the time of inspection.

This area is coastal and can be described as having a rugged exposed and expansive topography with long range views. The land use is agricultural with a dispersed settlement of small detached dwellings of small-to-medium plot sizes.

#### **Site History:**

No site specific history.

Planning history neighbouring the site:

R/2001/1153/F GRANTED 28.11.2001

Extension to the rear and side of dwelling at 22 Rossglass Road South, Killough

R/1985/0754 GRANTED

Garage at 22 Rossglass Road South

R/1983/0013 GRANTED 09.02.1983

Extension to dwelling at 22 Rossglass Road South

R/1975/0556 REFUSAL

Dwelling at Rossglass

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

The site will be considered in relation to the Regional Development Strategy, The Ards and Down Area Plan 2015, The Strategic Planning Policy Statement for Northern Ireland, Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside, PPS15 Planning and Flood Risk, PPS3 Access Movement and Parking as well as PPS2 Natural Heritage.

Departmental guides such as Building on Tradition – A Sustainable Design Guide and DCAN 15 Vehicular Access Standards will also be considered.

The list provided is not an exhaustive list. Should the case officers report consider any other relevant planning policy or materials, the source will be referred to within the report.

### **Summarised Consultation Responses:**

Transport NI – requested amended plans which were provided and offered no objections subject to access conditions as detailed within Transport NI consultation response 19.9.2018

#### NI Water – Standard Response

Department for Communities (DfC) – Historical Environment Division consulted as the site is within the area of influence of an Ecclesiastical site (HED reference DOW 045:012)

Responded 8.8.2018 and Historic Monuments detail conditions including conditions for the agreement and implementation of a developer funded programme of archaeological works to include a Level 2 historic building survey of both vernacular structures. This would be to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ as per Policy BH4 of PPS6.

DAERA Marine Team – consulted as the site is within Mean High Water.

Responded with no objection subject to informatives.

Shared Environmental Services – response advised the proposal is unlikely to have an impact on the designated sites.

DAERA – Natural Environment Division (NED) consulted due to close proximity of site to national and European sites, Tyrella and Minerstown ASSI and Murlough



SAC. They considered the proposal and advised that on the basis of the information available, they are content with the development as proposed.

DAERA-Drainage and Water advised of standing advice with no objection detailed.

DAERA-Coastal Development considered the proposed and on the basis of the information provided recommending standard conditions and informatives.

The full details of all consultation responses are available on the planning portal.

### Objections & Representations

The site was advertised in Mourne Observer and Down Recorder on 27<sup>th</sup> of June 2018. A total of 1 neighbour notified. No representations, concerning the proposal, have been received.

### Consideration and Assessment:

The proposal is for conversion, with extension and adaptation, from existing agricultural buildings into a 3 bedroom dwelling with detached garage.



The proposal includes conversion, with large extension, of the north western building into 2 bedrooms and bathroom. The extension will provide for the master suite, living space and a glazed link. The total floorspace for the proposal, not including the detached garage, is 220sqm. This is made up from approx. 60sqm of the original build and a new build of 165sqm. The conversion proposed for the smaller building to the south and east would create a detached garage. This would convert the building to 43sqm detached garage linked to the main dwelling by a wall.

The main portion of the proposed dwelling would be the new build which includes the master suite with en-suite, kitchen, living room, hall (ie glazed link) and sunroom. For the purposes of description within this report, the new build can easily be divided into 4 elements due to the variation of heights materials and finishes. The elements include from the single storey glazed portion that provides a link to the original build

as well as hall space, the main portion of the build has a pitched roof with a ridge height of 4.26m, the height then steps up by 0.2m to serve the master suite, with a smaller flat roof link to the stone building. The south facing return details the sun room, it has a pitched roof with a height of 4m. This makes the sunroom lower in height than that of the main new build element. The new build will provide approx. 131sqm. Overall the proposed dwelling would have a total floorspace of 220sqm (new build 167sqm and existing 36sqm).



The building to the south and east of the building is to be converted into a detached garage providing approx. 43sqm of ancillary space to the domestic property. A new stone link wall, at a height of 1.3m will link the 2 existing buildings, will provide the dwelling with an enclosed courtyard.

The plan will require the removal of 3.5m of the existing stone ditch and hedge and new boundaries.

The access from the Rossglass Road south is adjacent to the existing detached garage of No 22, and as all the boundaries of the site are new, they will be defined by a hedge of native species (detailed in the site layout).

Planning Policy within the Countryside is managed through sustainable development. The Strategic Planning Policy Statement for Northern Ireland (SPPS) includes strategic policy for residential and non-residential development in the countryside. It must be considered along with PPS21 Sustainable Development in the Countryside which is retained by the SPPS.

Policy CTY1 details the types of applications which are acceptable in principle as they are considered to contribute to the aims of sustainable development within the countryside. It states that other types of development will only be permitted where there are overriding reasons why it is essential. One such avenue for non-residential development is the conversion and reuse of an existing building in accordance with Policy CTY4-The Conversion and Reuse of Existing Buildings.

Policy CTY4 states that permission will be granted for the sympathetic conversion, with adaptation if necessary, of a 'suitable building' for a variety of alternative uses where it would secure its upkeep and retention. However, the Strategic Planning Policy Statement (paragraph 6.73) refers to 'suitable locally important building of special character or interest' and provides examples which include former school houses, churches and older traditional barns and outbuildings. Paragraph 1.12 of the SPPS requires any conflict between the SPPS and PPS21 to be resolved in favour of the former. The examples listed suggest that such buildings should be of some worth to the local area in terms of their historic, architectural, aesthetic or community value.

The applicants planning agent has provided detailed historical maps which reference a group of buildings that are included on OSNI Historical Maps. The maps provided are dated 1832-1846, 1846-1862, 1900-1907, 1905-1957 and 1957-1986. The group of buildings, identified within the oldest map (1832-1843) would appear to have altered considerably over the years from a group of several buildings with defined curtilages and a path through to the shore, to 2 single buildings within 2 larger agricultural fields. The path to the shore, which previously travelled through the site, referenced within the maps is no longer present. The curtilage of the original group of buildings has been lost completely. Therefore the built fabric, historical land divisions relating to previous buildings and the path which provided a link from Rossglass Road South, through the group of buildings to the shore, are no longer present. Therefore the 2 buildings within the proposed conversion are the only remaining structures of the original group of buildings. The plots and path detailed in the maps provided are no longer visible and have been lost to the 2 agricultural fields. The historical context of the original group of buildings has been lost. Site inspection of the internal structure of the buildings illustrates that the buildings have been rebuilt and mended overtime in such a way that may have secured their use as agricultural but diluted any features the original buildings may have had. Therefore the buildings proposed for conversion would not be considered suitable for the purposes of planning policy CTY4 (PPS21) or the SPPS.

The conversion of the building and its reuse, as proposed, requires considerable new build and boundary definition. This would not maintain or enhance the integrity of the original buildings and is contrary to planning policy.

The conversion includes a large extension. The new build section will be larger in scale and mass than the original building. This would more than double the floorspace. The proposed extension will also introduce varying heights, materials/finishes that would detract from the character and form of the existing building. Policy justification and amplification stresses the importance of good design and particular care would need to be taken with conversions of traditional buildings to ensure that their character is not lost to the overall scheme (paragraph 5.22 of CTY4, PPS21) The conversion requires the introduction of several window

openings and new door openings to facilitate the domestic use, if the principle for conversion coupled with the scale of the new build was to be accepted, the proposed new openings for windows and doors are not a concern. In conclusion, the conversion would fail to maintain the form, character, architectural features, design and setting of the existing buildings. The proposal would have an adverse effect on the character and appearance of the locality and the new extension would not be sympathetic to the scale, massing or style of the existing building. The proposal is contrary to CTY4.

Considering the proposal in relation to the existing dwellings in the vicinity of the site, the only dwelling that would have the potential to be affected by the proposal would be the detached dwelling at No 22 Rossglass Road South. There is a suitable separation distance. While the neighbouring dwelling is currently within land etched in blue ie within the ownership/control of the applicant, this could change in the future and the access arrangement through the driveway of No 22 would create a shared access running directly along the gable wall. Policy requires access to the public road to be sound in terms of road safety. Consultation with Transport NI required the applicant's submission of an amended layout. This has been provided and Transport NI are now content with the access arrangements. The proposal would therefore be in keeping with policy CTY4(g) as it can be concluded that the proposal would not prejudice road safety or significantly inconvenience the flow of traffic.

The loss of the existing mature hedge and stone ditch is limited to 3.5m within the amended site layout. The proposal would not conflict with PPS2. The proposal requires the creation of a curtilage to facilitate the domestic property providing amenity space. This will be cut out of 2 separate agricultural fields. While the proposal would not result in the creation of a roadside dwelling, the exposed nature of this rugged shoreline does not easily lend itself to facilitate integration. As a result, the proposal will rely entirely on new boundaries definition and significant planting. This will take time to become established. The proposal will rely on new landscaping for integration. This is contrary to policy CTY13 of PPS21.

The site constraints revealed the site is within an area of influence on an ecclesiastical site and as a result Historic Environment Division (HED) was consulted. The SPPS requires development proposals which would adversely affect archaeological remains of local importance or their settings where the planning authority considers that the need for the proposed development or other material considerations outweigh the value of the remains and/or their settings (paragraph 6.9). Therefore while the principle of the proposal and the details proposed are not considered to be acceptable in terms of PPS21 and the SPPS, Council must also ensure that the comments of Historic Environments Division are taken into consideration. HED recommend archaeological planning conditions to be attached should the proposal be acceptable in planning terms.

The site is located within a designated Area of Outstanding Natural Beauty and does not offend Policy NH6 of PPS21.

In terms of development, such as the proposed dwelling, which will rely on non-mains sewerage policy CTY16 must be considered (PPS21). The application form details the surface water would be disposed of through soakaway while the foul

sewage would be disposed of by septic tank. The position of the tank and soakaways are indicated on the site layout.

### **Recommendation:**

*Refusal: The proposal is contrary to the SPPS and CTY4 as it is not considered to be a locally important building suitable for conversion in that the historical context of the site, presented in historical maps provided by the applicant, has been lost, the building also lacks any features of architectural interest that would merit conversion for upkeep and retention.*

*The submitted plans illustrate a new extension which is not sympathetic to the scale and massing of the existing building.*

*In terms of the need for integration the curtilage of the site is made by combining 2 portions from larger fields and requires entirely new boundary definition. This will take time to become established and is contrary to Policy CTY13 of PPS21.*

### **Refusal Reasons**

Recommended Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that it has not been demonstrated that the building proposed for conversion is a locally important building suitable for conversion.
2. The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the new extensions are not sympathetic to the scale, massing, architectural style and finishes of the existing building.
3. 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;
  - the proposed building relies primarily on the use of new landscaping for integration; and therefore would not visually integrate into the surrounding landscape.

**Case Officer signature:**

**Date:**

**Appointed Officer signature:**

**Date:**

**Application Reference: LA07/2018/0891/F**

Proposal: Conversion and extension of existing vernacular structure to form a residential dwelling

Location: 30m SE of 22 Rossglass Road South Killough Downpatrick

The above application has been scheduled for refusal for the following reasons;

- 1- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that it has not been demonstrated that the building proposed for conversion is a locally important building suitable for conversion.
- 2- The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the new extensions are not sympathetic to the scale, massing, architectural style and finishes of the existing building.
- 3- 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;
  - the proposed building relies primarily on the use of new landscaping for integration; and therefore would not visually integrate into the surrounding landscape.

We would respond to each reason as follows -

**1:** As per the Level 2 Historic Building Survey Report submitted on 15th October 2018, these two existing structures date back to between 1830 and 1858, and are all that remain of a much larger grouping of buildings dating back to this time. These are some of the oldest structures in the immediate locality, and as such, should be considered for conversion under PPS6 Policy BH15. They form a very important part of the context to the historic site of the adjacent St Brigid's Church as shown on the older maps submitted, and are an intricate part of the historic fabric of the local townland. Also, it is a matter of opinion as to whether a building is locally important and suitable for conversion or not. We consider that it is, and should be allowed conversion under Policy BH15.

**2 and 3:** Revised plans, elevations and site plan were submitted to the Council to address the scale of the extension and bring it into compliance with Policy CTY4, and the issues with new boundaries (Policy CTY13). 4no copies of all were posted, with cover letter, on 7th November 2018. These revised proposals have never been uploaded to the planning portal, and the case officers report and recommendation to refuse has been completely based on the original proposal, as per the drawings inserts in the case officers report. Copies of all revised drawings were also emailed to Cllr Terry Andrews on 7th November 2018 at the request of my client, and he forwarded an email of support for the application on 13th November 2018, detailing the 50m<sup>2</sup> reduction in footprint and re-design of site layout to reduce impacting bring the access lane to the rear of the existing structures. The existing building and linking wall will form the front boundary, with all proposed building work and landscaping set behind the existing structure. Therefore the visual integration from the Rossglass Road South will be generally the same as currently exists and this will not be contrary to Policy CTY13 as the building currently exists.

To conclude, new information submitted to the Council on 7th November 2018 has not been uploaded to the planning portal, or considered in determining the application. This information had been forwarded 5-6 weeks prior to the application being scheduled on this list, and my opinion is that it is completely unreasonable for the Council to completely ignore it. For this application to stand any chance of being approved, by Council or at appeal, receipt of the most recently submitted proposal (7th Nov 2018) needs to be acknowledged by the Council.

We would like to point out that a new case officers report has been published on the planning portal on 30th January 2019 specifically for the Committee meeting. This still refers entirely to the original submission, and has not at all considered the new, significantly reduced proposal.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0915/F

**Date Received:** 15.06.2018

**Proposal:** Provision of bunk house tourist accommodation and associated site works.

**Location:** Land 15m North of 6 Largy Road, Kilcoo, Newry.



The site is within the countryside between Kilcoo and Castlewellan and within a short distance from Lough Island Reeve.

#### **Site Characteristics & Area Characteristics**

The site is accessed from the Largy Road through an established lane. This tarmac lane serves as access to agricultural lands and provides vehicular access to detached dwellings at 8, 6 and 10 Largy Road. The area has significant undulation associated with the foothills of the Mournes and could be described as having a distinctive high topography with rocky outcrops, clear field patterns which are reinforced by stone walls. The access lane rises steeply moving west from the Largy Road passing the access and garden of the detached bungalow of No 8 Largy Road. The lane continues west with a steep climb passing No 6 Largy Road and moving north-west to the site. The site is located north of No 6, a detached dwelling that directly abuts the lane. The lane has a steep incline which rises as you travel west and north passing the detached dwelling of No 6 Largy Road and past the site to the lands beyond.

The site is divided into 2 portions by a stone wall and lane which provides a grassed section to the east with mature trees and vegetation providing boundary definition. The eastern portion contains a single storey shed that encompasses a retaining wall along the south. The shed is finished with an angled tin roof and rendered walls, to the west and south of the shed is a section of saplings and vegetation which provides dense ground cover. The concrete lane, which divides the site, provides access to the agricultural lands north of the site.



The site has a noticeable incline that rises from the east to the west. Due to the steep incline of the site of the site, as well as the incline of the lane to the south, the south and western walls of the shed appear to act as retaining structures.

**Site History:**

No site specific history. Neighbouring site history refers to permission granted under R/1981/0658 for a dwelling and R/1983/0658, approval for a replacement dwelling under reference R/1993/0628.



**Planning Policies & Material Considerations:**

The proposal will be assessed in relation to the Regional Development Strategy, the Ards and Down Area Plan 2015, the Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statement 21 Sustainable Development in the Countryside (PPS21), Planning Policy Statement 16 Tourism (PPS16), PPS3 Access, Movement and Parking as well as Planning Policy Statement 2 Natural Heritage (PPS2). Departmental guidance will also be considered which will include DECAN 15 Vehicular Access, Building on Tradition, Mourne Design Guide (AONB).

**Consultations:**

*NI Water Ltd* – no objections and refers to information for the applicant to consider.

*Transport NI* – no objections to the proposal subject to conditions relating to the access.

*NMandD Environmental Health* – no objections in principle provided the compliance with food and health and safety requirements/

*Northern Ireland Tourist Board* – advice sought and as the proposal does not fall within the major planning application category comments are not provided with Council directed to the Council's Tourist officials. The advice directs the applicant to Tourism NI's Quality and Standards Unit to discuss requirements that Tourism Accommodation Providers must comply with under the Tourism (NI) Order 1992.

**Objections & Representations**

The site was advertised in Mourne Observer and Down Recorder on the 4<sup>th</sup> of July 2018.

A total of 3 Neighbours were notified. No representations have been received prior to completion of this planning report.

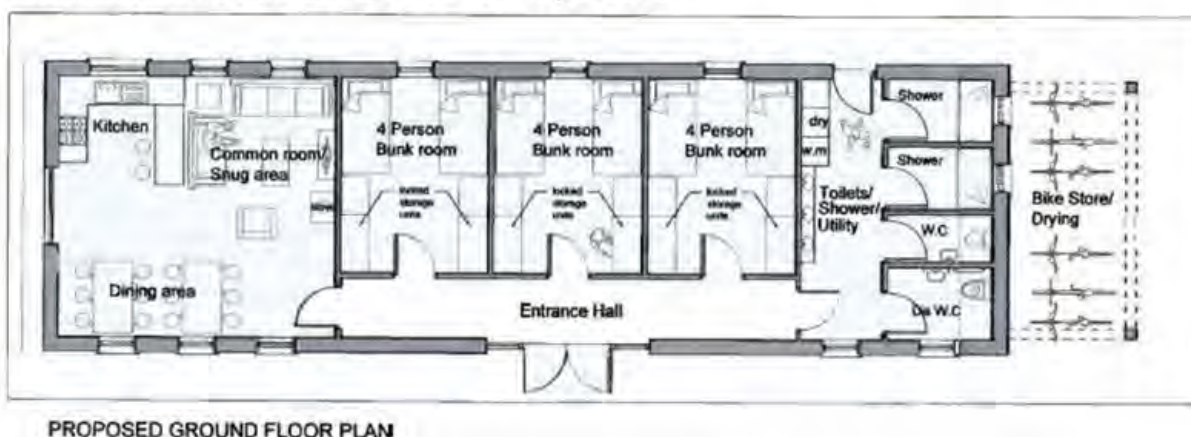
**Consideration and Assessment:**

The application is an outline proposal for new build tourist accommodation for a bunk house within the countryside.

The plans submitted detail a rectangular pitched roof building at a height of 4.3m. The building would provide floorspace of 120sqm and include a lean-to bike storage/wash/drying area. The unit will be positioned slightly north and west of the original building with only a small portion of the new build overlapping the footprint of the original. The bunk house would be angled to face a south-south-eastern direction and include a small patio area separating the building from the lane which will be supported by a new retaining wall 3m in height. The building will be finished with black corrugated metal roof panel and dark grey corrugated metal wall panels. The windows have a vertical emphasis and will be finished with dark grey double glazed uPVC.



The floorspace is organised into a kitchen with communal living space, a shower and toilet area as well as 3 bunk rooms which can each serve 4 persons. The proposal could accommodate a maximum of 12 persons.



The proposal is for new build tourist accommodation within the Countryside. Planning Policy within the Countryside is managed through sustainable development. The Strategic Planning Policy Statement for Northern Ireland (SPPS) includes strategic policy for residential and non-residential development in the countryside. It must be considered along with PPS21 Sustainable development in the Countryside and PPS16 'Tourism' which also identifies criteria for consideration of tourist development.

Policy CTY1 of PPS21 identifies a range of development which in principle is considered to be acceptable in the countryside and will contribute to the aims of sustainable development. The policy identifies Tourism Development and refers to The Planning Strategy for Rural Northern Ireland, however policy relating to Tourism within the Strategy document have since been superseded through the publication of PPS16 'Tourism'. Therefore I will refer to current policy which is applicable in this case, ie PPS16.

The proposal is for a bunk house. This type of tourist accommodation is established by Article 12 of the Tourism (NI) Order 1992 and Amendment – Categories of Tourist Establishment Order (NI) 2011 and has no specific policy provision included within PPS16.

A bunk house is defined by Tourism Northern Ireland as offering simple overnight accommodation which retains its character and original internal and external features whenever possible, they are usually located in remote or rural locations where facilities and services may be limited.

Within Tourism Northern Ireland's basic guide to starting a bunk house it refers to cooking and dining area, common room, bathroom facilities and sleeping accommodation. The guide does not refer to any specific space standards for each section within the space, referencing a ratio of 1 bathroom per 20 bedspaces.

Bunk Houses do not have a specific policy within PPS16 for consideration and therefore do not sit easily within the current policy, however as the proposal would be very similar to that of a hostel, policy TSM 3 will be considered as well as TSM 7 which provides criteria for tourism development. It must be noted that the proposal would not meet policy criteria for self-catering accommodation in the countryside under Policy TSM5.

The proposed bunk house is in replacement of an existing agricultural building. Policy TSM3 (a) provides an avenue the replacement of an existing rural building to accommodate hotels, guest houses and hostels provided the proposal can fulfil a number of criteria.

The existing building is a rural building that is of permanent construction. The existing building is an agricultural building with a low angles flat roof, finished in smooth render with a large metal shed door. It is not a vernacular building and it does not make an important contribution to the local heritage or character. Both the existing building and its replacement are of a sufficient size to facilitate the proposed bunk house use with suitable communal, living, sleeping and bathroom facilities as set out in the Tourism (NI) Order 1992 and Amendment in 2011. The existing building is not listed.



It has not been demonstrated that the replacement and redevelopment proposed would result in a significant environmental benefit. This would offend planning policy TSM3.

The overall size and scale of the new development, which includes external bike storage and a designated parking area, will make use of the existing and well established boundaries within the site and would therefore integrate into the surrounding landscape. Although the building will provide more floorspace than the



referring to £75000 of funding available to construction/development which includes bunk houses. Funding would only be available to development with the benefit of planning permission. The statement also includes search results of bunk houses within the area, of which there is only 1. This established bunk house is located within Newcastle and called 'Shepard Lodge'. The applicant identifies that the proposal would provide a type of tourist accommodation that is lacking in the area.

The proposal does not meet all policy criteria of TSM3 specific for replacement of an existing rural building with a hostel (in this case a bunk house) in that the proposal fails to demonstrate how it would result in significant environmental benefit. This is contrary to PPS16 Policy TSM3.

In addition to TSM3 a proposal for tourism use will also be subject to criteria set out within Policy TSM 7 Criteria for Tourism Development. This refers to sub categories for design criteria and general criteria some of which has been highlighted within policy TSM3. While the design criteria refers to a movement pattern, the site layout indicates that the proposal will support pedestrian and cycling alike and the single level nature of the internal layout could meet the needs of people with mobility impairment. The site is rural and within 0.6km within walking distance from public transport ie bus stop. The current lane within the site divides the site into 2 portions. The site layout demonstrates how the lane will be incorporated into the proposed layout and provides access to both the proposed car park serving the bunk house and access to the agricultural lands north of the site. Therefore the proposal would not hinder any established right of way and parking will not obstruct the lane. The layout also details retention of the existing vegetation and the low stone wall feature which will promote biodiversity. The car parking and bike storage directly abut the proposed building. This would deter crime as parking and storage of the vehicles and equipment, ie bikes, would be overlooked by the accommodation.

The site layout illustrates the position proposed for the septic tank. This will be 15m to the east and within the eastern portion of the plot and includes the soakaway. While this will be subject to approval of Consent to Discharge under The Water Order (NI) 1999, PPS21 Policy CTY16 refers to development relying on non-mains sewerage and design criteria of TSM7 also refers to sustainable drainage systems. I consider this sufficient detail, for this proposal, and the proposal is in keeping with policy criteria.

The general criteria of TSM7 require the (proposed) bunk house and ancillary works to be compatible with the surrounding agricultural land use and detached single dwellings. The nearest resident is No 6 Largy Road and is 26m to the south-east of the site. This property is included within the lands owned by the applicant as detailed within the site location and is the corresponding address detailed for the applicant within the P1 form. The proposal would be situated close to the applicant, this would provide an element of safety and management of the proposal with a suitable separation distance to ensure the privacy, currently enjoyed by No 6, would be respected and maintained.

The proposal will use the established access lane with some improvements at the junction shared with the public road, Largy Road. This will remove the existing wall. The wall will then be built to the rear of the visibility splays which are detailed as

2mX33mY. The site layout indicates a parking area to the front of the building which is clear of the existing lane and provides 4 car parking spaces as well as a space for a minibus. The proposal will require the demolition of the existing rendered shed and a new retaining wall to support the existing lane. The visibility splays proposed would facilitate a minimum standard as set within DCAN 15 Vehicular Access Standards. While this would be minimum standards, consultation with Transport NI did not return any objections provided planning conditions could be accommodated in the event of an approval.

The car parking includes provision of 4 standard sized parking spaces with a larger space to accommodate a minibus. Parking Standards do not specifically refer to a bunk house within non-residential development, however applying Use Class C2 as a guesthouse/bed and breakfast/or hostel where no significant element of care is provided the standard is 1 space per bedroom, a minimum of 2 cycle space and no need for lorry spaces. The proposal therefore meets the parking standards applicable to a hostel and while hostels also require 1 space for 3 staff on duty and 1 space per 5sqm of floorspace for bar/restaurant/conference, the proposal includes a communal room which would facilitate the residents.

The proposal would not meet the criteria for farm diversification detailed under PPS21 Policy CTY11. No information regarding an established farm, or how the tourist accommodation would be run in conjunction with agricultural operations has been received.

The site is within the established Area of Outstanding Natural Beauty (AONB). Policy NH6 of PPS2 Natural Heritage must be considered. This policy states that new development within the AONB will only be granted where it is of an appropriate design, size and scale for the locality and identifies necessary criteria to which the proposal would not offend.

### **Recommendation:**

#### *Refusal*

While the replacement and redevelopment proposed meets the majority of the criteria detailed within policy TSM 3 of PPS16, it would not result in a significant environmental benefit and therefore must be recommended for refusal.

### **Refusal Reasons**

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Planning Policy Statement 16 Tourism TSM 3 in that the redevelopment proposed for the replacement of an existing rural building would not result in significant environmental benefit.

<b>Case Officer signature:</b>
<b>Date:</b>
<b>Appointed Officer signature:</b>
<b>Date:</b>

MM / J516 / 06 February 2019

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

**Re: PROVISION OF BUNK HOUSE TOURIST ACCOMMODATION AND ASSOCIATED SITE WORKS AT LAND 15M NORTH OF 6 LARGY ROAD, KILCOO, NEWRY BT34 5JJ**

**REF: LA07 2018 0915 F**

Dear Sir/Madam,

I refer to the above planning application, which is to be discussed at the Council's planning committee meeting on 13 February 2019. The application has been recommended for refusal for the following reasons:

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy TSM3 of Planning Policy Statement 16 Tourism in that the redevelopment proposed for the replacement of an existing rural building would not result in significant environment benefit.

Having reviewed the SPPS, PPS21-CTY1 and PPS16 - TSM 3 we feel that the refusal reasons can be overcome. As outlined within our supporting statement, 'Bunk House' accommodation does not fall under PPS 16 as stated on page 36 of the policy. However, planning has assessed the proposal and deemed it to fail under TSM3 of PPS16 and we feel this should be open for further discussion.

#### **RESPONSE TO REFUSAL REASON 1**

The proposal seeks to provide Tourism Amenity Accommodation in the Countryside (Rural Mourne's area) for tourists wishing to explore the Mournes by foot or bicycle. A full list of local Tourism Amenity sites has been identified in the supporting statement. We feel that this proposal is an Appropriate Tourism development in accordance with planning policy. The development shall provide a modest unit of tourist accommodation which shall cater for those tourists who wish to holiday in remote locations. This is noted as being a growing tourist market. This development shall help the council achieve its aim of making the council area 'one of the premier tourism destinations on the island of Ireland'.

#### **RESPONSE TO REFUSAL REASON 2**

Proposals for tourism development in the countryside will be facilitated through PPS 16 (policies TSM 2 to TSM 7) and other planning policy documents that provide scope for tourism development in the countryside. Tourism development will also be facilitated through local tourism policies contained in some adopted and emerging development plans.



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It can be argued that the Council refusal reason are a misinterpretation of policy as the refusal reasons are on the basis of TSM 3 of PPS 16. This policy is for **Hotels, Guest Houses and Tourist Hostels in the Countryside**. A full and detailed assessment of this policy illustrates that the assessment of a bunkhouse proposal does not fit within this policy. Indeed the word 'bunkhouse' is **not mentioned within the heading or the justification and amplification** associated with this policy.

This application is for a bunk house and therefore to assess it via TSM 3 of PSS 16 is incorrect. Indeed the case officer's report concedes that 'Bunk Houses do not have a specific policy within PPS 16 for consideration and therefore do not sit easily within the current policy'.

To equate a bunk house with a hostel to enable it to be assessed via this policy is inappropriate and results in the Council assessing the application incorrectly. As it does not fit neatly within the policy provisions of PPS 16 it falls to be considered via TSM 7 only. As the Council offers no objections to the development via TSM 7 it is therefore seen to be policy compliant and we feel should be recommended for approval. As the development complies with TSM 7 it falls to comply with CTY1 of PPS 21.

In response to the refusal reasons given in Reason 2, an amended site layout plan was submitted to planning to overcome this refusal reason. This amended site layout plan proposed the retention of the existing shed and erection of a new building (bunk house) adjacent to it and within the site boundaries. Three glamping pods were also positioned within the site boundaries with no detrimental effect to the existing landscape or neighbouring amenity levels. Due to protocol the revised scheme was returned. It should be noted, a similar scheme comprising of 4 no. glamping pods and an associated 'amenities' building was approved a few miles away under application Ref:LA07/2018/0460/F.

Confirmation from Tourism NI that the proposal meets their requirements and minimum standards as outlined in The Tourism (Northern Ireland) Order 1992 schedule for Bunk House has been confirmed.

The client has proposed a full business plan with the support of the 'Start a Business Programme' operated by the Newry and Mourne Enterprise Agency and can obtain funding via the Rural Business Investment Scheme if planning permission is achieved. Securing planning permission is the first and critical key step in this whole process and I would be grateful if the planning committee would take the above into consideration in determination of this application.

Yours sincerely



**Barry Fletcher** RIBA  
Director, Architect

FLETCHER ARCHITECTS (N.I.) Ltd  
Enc



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/1030/O

**Date Received:** 9<sup>th</sup> August 2017

**Proposal:** Site for 100 bedroom hotel & spa

**Location:** 200 metres East of No. 25 Greenpark Road, Rostrevor.  
The site is located just to the north of Rostrevor.

**Site Characteristics & Area Characteristics:**

This is a large sloping site in Carrickbawn Wood to the north of Rostrevor. It is accessed from the Greenpark Road to the west. It currently contains an equestrian centre, some grazing for horses and a disused sand arena with floodlights. Several areas have been levelled by quarrying of rock and a snaking laneway has been constructed to provide access from the bottom to the top of the site. The site is heavily wooded with mature trees including beech, oak and ash. There is a large portal framed stable building near the top of the site. The site benefits from spectacular views over Carlingford Lough to the south.



Upper part of site and existing building



Disused sand arena &amp; view south



Existing access lane

The site is located in a rural area outside the settlement limit of Rostrevor as defined on the Banbridge, Newry and Mourne Area Plan 2015. It is within a Local Landscape Policy Area (RR09) and the Mourne and Slieve Croob Area of Outstanding Natural Beauty. Part of it is within a Site of Local Nature Conservation Importance. The site is adjacent to Rostrevor House Demesne, an 18<sup>th</sup> Century designed landscape which is on the Register of Historic Parks, Gardens and Demesnes. It is also a short distance east of Green Park Demesne, which is also on the Register. It is in close proximity to Rostrevor House and Carpenham House which are Grade B listed buildings. There are Tree Preservation Orders on the adjacent grounds of Rostrevor House and Carrickbawn Wood. Part of the forested area is classed as Ancient Woodland. The site is in proximity to Rostrevor Wood Special Area of Conservation and Area of Special Scientific Interest and is hydrologically linked to Carlingford Lough Special Protection Area / Ramsar site. Other land uses in the area include a Convent, a GAA Club, residential and agricultural use.

**Site History:**

The existing equestrian centre was approved under application P/1994/0865 on 2<sup>nd</sup> February 1995. An application (Ref: LA07/2015/0088/F) for additional stables and a store some distance east of the existing site was recommended for refusal and withdrawn on 1<sup>st</sup> February 2017.

Outline planning permission was granted on 12<sup>th</sup> June 1996 for a caravan park on the site under application P/1996/0409, though this was not implemented and has lapsed.

A housing scheme under application P/2007/1732/F for 15 dwellings and 3 apartments on land at the entrance off Greenpark Road was approved on 31<sup>st</sup> March 2014.

A 50 bedroom hotel and spa was approved on the site under application P/2008/1178/O on 10<sup>th</sup> November 2011. This approval has now lapsed. It began as an application for a 100 bedroom hotel, but was reduced to 50 bedrooms during processing. It had been accompanied by an Environmental Statement for a 100 bedroom hotel. The developer is now seeking a 100 bedroom hotel to make the investment viable. In 2015, the applicant applied for a Pre-Screening under the EIA Regulations as to whether a new Environmental Statement would be required (see Ref: LA07/2015/0601). Following advice from consultees, it was agreed that a new Environmental Statement would not be required as the proposal could be assessed using the previous Environmental Statement, though consultees could request any necessary updates. Upon receipt of the current application and due to the introduction of the 2017 EIA Regulations, the Council carried out a further EIA screening and took advice from a number of consultees. On 15<sup>th</sup> November 2017, it was determined that the application did not require to be accompanied by a new Environmental Statement.

As the current application is a major application as defined by the Planning (Development Management) Regulations (Northern Ireland) 2015, it was preceded by a Proposal of Application Notice (Ref: LA07/2017/0757/PAN) and a period of Pre-application Community Consultation as required by legislation – see report on file.

**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
- PPS6 – Planning, Archaeology and the Built Heritage
- PPS15 – Planning and Flood Risk
- PPS16 – Tourism
- PPS21 – Sustainable Development in the Countryside
- Building on Tradition Sustainable Design Guide

**Consultations:**

- TransportNI – No objections subject to the access being detailed at reserved matters stage including 10m radius and a right turn pocket.

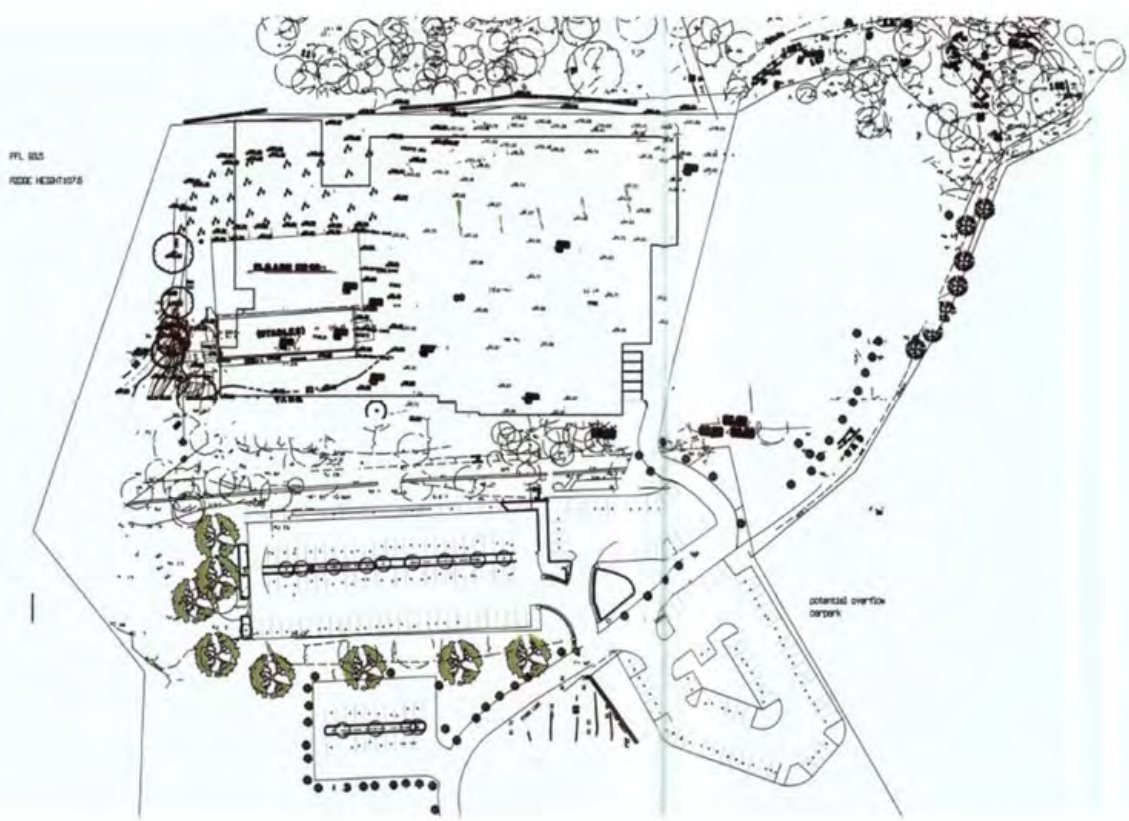
- NI Water – Site-specific informatives. A surface water sewer is not presently available but could be requisitioned. There is available capacity at the receiving Wastewater Treatment Works.
- Environmental Health – Requested additional information on noise. Upon receipt of this information, EH were content subject to there being no nuisance from the air conditioning system, the premises being connected to the main sewer and an application being made to the Council for an entertainment licence.
- Historic Environment Division – The proposal is acceptable subject to attached conditions.
- Rivers Agency – Requested a Drainage Assessment. This was provided on 1<sup>st</sup> November 2017, but did not fully meet policy requirements with regard to the calculation of the size of the attenuation system, storage capacity or overland flow routes. The agent argued that this cannot be provided until the detailed design is known at reserved matters stage. Therefore it could be required by condition if the application is approved.
- Loughs Agency – Content subject to a condition that storm water should not be discharged to watercourses unless first passed through pollution interception and flow attenuation measures.
- NIEA – Standard advice on sewerage and drainage. Requested a Biodiversity Checklist and Preliminary Ecological Appraisal in relation to badgers, bats and birds as previous surveys were out of date. This was submitted on 2<sup>nd</sup> February 2018. They are now content provided all existing trees are retained as stated and a detailed tree survey is submitted at reserved matters stage.
- Shared Environmental Services – Following clarification on site drainage, the proposal should not have any effect on any European site.

### **Objections & Representations:**

The application was advertised in the local press on 31<sup>st</sup> August 2017 and five neighbouring properties were notified of the proposal on 17<sup>th</sup> August 2017. One objection was received stating that the proposal was too large in scale and out of keeping with the village. In contrast, the feedback from the Pre-application community consultation exercise was generally supportive of the proposal.

### **Consideration and Assessment:**

The proposal is for a 100 bedroom 4 star hotel targeting the upper end of the tourism industry. It will include spa, leisure (gym) and conference facilities, a restaurant and two lounge bars. It is suggested that the equestrian centre will be relocated within the site, though there are no details of this proposal in the planning application. While the proposal is for outline permission only, 3D perspectives and indicative floor plans and wire frames and photomontages have been submitted for consideration including those below:



The main issues to be considered are the principle of the development under tourism policy, effects on the setting of listed buildings and historic parks nearby, impacts on protected sites and habitats, 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. Development of tourism infrastructure needs to be appropriate to the location to ensure that the natural assets are protected and enhanced. RG11 of the RDS seeks to conserve and protect our built heritage and our natural environment, and specifically, to maintain the integrity of built heritage assets including historic landscapes. The agent having had 7 opportunities to submit the information necessary to demonstrate that there will be no impact on the setting and integrity of the planned landscapes and listed buildings adjacent to the site, has now demonstrated that the site is capable of accommodating this proposal subject to some strict conditions attached to any approval forthcoming.

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 Mournes 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 site is within a Local Landscape Policy Area (RR09) and on the edge of a Site of Local Nature Conservation Importance. Among the areas and buildings that contribute to the LLPA designation are the hills and woodland surrounding the settlement and historic buildings including the Convent and Carpenham House. The agent has now demonstrated that the proposal will not adversely affect the setting of these buildings subject to the attached conditions. Therefore the proposal is also considered to comply with the LLPA designation of the Area Plan and the relevant plan policy CVN3 as the development will not adversely affect the intrinsic environmental value and character of the designated area. With regard to the SLNCl, Appendix 1D of the plan states that Carrickbawn Wood is "*A mixed broad-leaved woodland located in a river valley and semi-natural in origin. There is reasonable structure within the woodland with a mixed canopy, developing understorey and scattered ground flora. Boulders are scattered throughout the woodland and have extensive moss cover, additional interest comes from rotting stumps now covered in moss and fungi.*" Since the agent has confirmed that no trees will be affected by the proposal, there will be no adverse impact on the SLNCl or trees protected by the Tree Preservation Order.

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 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 tourism following the publication of the SPPS and it is

arguably less prescriptive, the retained policy of PPS16 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.

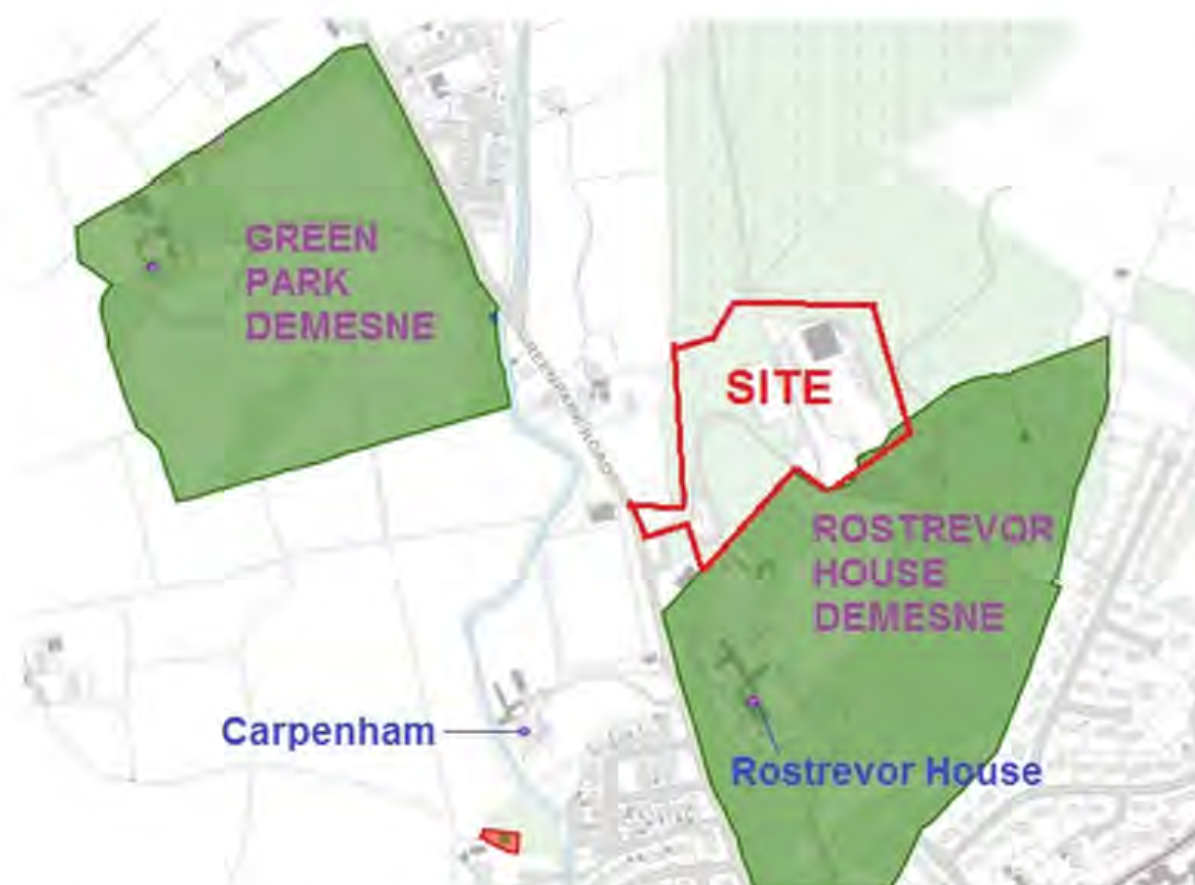
New hotels will be assessed against Policy TSM3 of PPS16. A new hotel will be acceptable either where it involves the replacement of an existing rural building, or as a new build proposal on the periphery of a settlement. As the applicant is proposing to relocate the equestrian centre within the site, the proposal is not a straight replacement of this building. However, it is considered acceptable in principle as a new build proposal on the periphery of a settlement. The access to the site from Greenpark Road is within the Rostrevor settlement limit and there are no other known suitable sites for a development of this scale within the settlement, or suitable buildings for conversion. The development site is close to the settlement, but would not dominate it, adversely affect its landscape setting or otherwise contribute to urban sprawl given the existing screening around the site which will be retained and the limited views from public viewpoints. While not strictly adjacent to the development limit, the upper part of the site is considered a better location for the development in visual and amenity terms and will give the opportunity to improve an area containing degraded buildings. The Council is therefore satisfied that the proposal is in general accordance with the sequential location test of TSM3 and acceptable in principle for hotel development.

Tourism development proposals are also subject to the design and general criteria in policy TSM7. Detailed design and layout cannot be assessed at outline stage, but the use of a sustainable drainage system is proposed and the proposal is considered compatible with surrounding land uses. While the Drainage Assessment did not fully meet the requirements of PPS15, it can be conditioned to form part of a future reserved matters submission if the application is approved. It should not harm the amenity of neighbours. Mains sewerage is available. There are no concerns regarding access and the existing road network can handle the extra vehicular traffic generated by the proposal. It has also been demonstrated that the proposal will not adversely affect features of the natural or built heritage, as discussed further below.

The site has a hydrological linkage to Carlingford Lough SPA and required screening under the Habitats Regulations. The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site. NIEA have also assessed the impact on protected habitats and species. An updated ecological assessment was undertaken in February 2018, with specific consideration of bats, badgers and birds. NIEA are content that there will be no adverse effects on these species as all existing trees are to be retained and no priority habitats were identified.

The site is adjacent to Rostrevor House Demesne, an 18<sup>th</sup> Century designed landscape which is on the Register of Historic Parks, Gardens and Demesnes. It is also a short distance east of Green Park Demesne, which is also on the Register. It is in close proximity to Rostrevor House and Carpenham House which are Grade B listed buildings. The location of these protected areas in relation to the site is shown on the map below:





Policy BH6 of PPS6 states that development which would cause harm to the character, principal components or setting of parks, gardens and demesnes of special historic interest will not normally be permitted. Rostrevor House demesne and designed landscape has origins in the 18th century and was the focus of one of the most important tree and shrub collections of late Victorian and Edwardian Ireland. The parkland planting was expanded throughout the 19th century and remains largely intact. The original design concept of the demesne would have included planned views from various areas within the landscape. The planned views within this demesne and also Green Park must be assessed and protected as part of this application.

Policy BH11 states that development which would adversely affect the setting of a listed building will not normally be permitted. The setting of a listed building is often an essential part of the building's character. This is particularly the case where a demesne, landscaped parkland, garden or grounds have been laid out to complement the design or function of the building. Paragraph 6.32 of PPS6 states, "Where it is considered that a development proposal may affect the setting of a listed building the Department will normally require the submission of detailed drawings which illustrate the relationship between the proposal and the listed building. Where appropriate the Department will use its powers contained in the General Development Order to request applicants to supply such additional information on the proposed development as is considered necessary to allow proper determination." After 7 attempts, the Planning Authority has now received sufficient information to satisfy the statutory consultees of Historic Environment Division. These included detailed drawings, photomontages and wireframes to allow an

assessment of the impact of the development on the setting of the protected sites. Specifically, photomontages and wireframes. HED have now advised that they are generally content with the proposal subject to conditions being attached in relation to siting, height, Finish Floor Levels, the arrangement and layout of the proposed parking arrangement, lighting and landscaping. (Please see conditions below).

As development in the countryside, the proposal is subject to the design and integration criteria for buildings in the countryside in PPS21. Policy CTY13 deals with Integration and Design of Buildings in the Countryside. The site benefits from the mature screening of Carrickbawn Wood and a backdrop of rising land and with the visual images we have requested and now received, we are now content that the proposal will meet the requirements of CTY 13 and NH 6 of PPS 2, subject to conditions. It has now been demonstrated that the proposal will respect planned views from Rostrevor House and Green Park which are of importance to the character, appearance and heritage of the landscape. With regard to policy CTY14 the proposal will not contribute to build-up since much of the other surrounding development is within the Rostrevor development limit. There is no issue of ribbon development.

Given the most recent information and subsequent consultation with HED, The Planning Department are now content to recommended approval to the Planning Committee, subject to the following conditions.

**Recommendation:** Approval

**Conditions:**

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
  - i. the expiration of 5 years from the date of this permission; or
  - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

2. The under-mentioned reserved matters shall be as may be approved, in writing, by the Council :-

Siting; the two dimensional location of buildings, car parking and lighting structures within the site.

Design; the two dimensional internal arrangement of buildings and uses and the floor space devoted to such uses, the three dimensional form of the buildings and all other associated works and structures and the relationship with their surroundings including height, massing, number

of storeys, general external appearance and suitability for the display of advertisements.

External appearance of the Buildings; the colour, texture and type of facing materials to be used for external walls and roofs.

Means of Access; the location and two dimensional design of vehicular and pedestrian access to the site from the surroundings and also the circulation, location and design of car parking, lighting and other infrastructure associated with the proposal, facilities for the loading and unloading of vehicles and access to individual buildings within the site.

Landscaping; the use of the site not covered by building(s) and the treatment thereof including the planting of trees, hedges, shrubs, grass, the laying of hard surface areas, the formation of banks, terraces or other earthworks and associated retaining walls, screening by fencing, walls or other means, the laying out of gardens and the provisions of other amenity features.

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

3. Ridge height of hotel building at position shown shall be a maximum of 14m above existing levelled ground level, shown at point A on attached image (FFL indicated at 93.5m on dwg 03 Rev 2)  
Reason: to ensure the detailed design respects the listed building in terms of scale, height, massing and alignment
4. Roofs shall be traditional and symmetrically (2 side) pitched to angle at a minimum angle 25°  
Reason: to ensure the detailed design respects the listed building in terms of scale, height, massing and alignment.
5. Lighting shall be subject to reserved matters agreement through further application to council  
Reason: to ensure the nature of the use proposed respects the character of the setting of the building
6. Roof materials shall be from a Palette of natural Welsh slate, lead, zinc, bronze, copper and without plastic coating.  
Reason: to ensure the works proposed make use of traditional or sympathetic building materials and techniques and use of quality materials commensurate with the historic setting
7. Rain water goods shall be steel or aluminium

Reason: to ensure the works proposed make use of traditional or sympathetic building materials and techniques and use of quality materials commensurate with the historic setting

8. Windows and doors shall be timber or aluminium  
Reason: to ensure the works proposed make use of traditional or sympathetic building materials and techniques and use of quality materials commensurate with the historic setting
9. A scale plan and accurate site survey at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1.  
Reason: Road Safety.
10. All trees on site shall be retained and protected during the site clearance, construction and occupation phases of the approved development.  
Reason: To protect a woodland of high nature conservation value.
11. Plans at Reserved matters stage shall show all trees being retained and protected in accordance with British Standard 5837:2012 (Trees in relation to design, demolition and construction Recommendations)  
Reason: To protect a woodland of high nature conservation value.
12. Plans at reserved matters stage shall show no construction works (including storage of machinery/material/spoil etc.) within Carrickbawn Wood SLNCI.  
Reason: To protect a woodland of high nature conservation value
13. At reserved matters stage a lighting plan shall be submitted, illustrated on a large scale map, it shall show the use of low level lighting throughout the site and shall show no illumination of the retained trees or adjacent woodland.  
Reason: To minimise the impact of the proposal on bats.
14. A Drainage Assessment taking into account the requirements of FLD 3 of PPS 15, or any policy which supersedes that, shall be submitted as part of the Reserve Matters Application.  
Reason: To limit urban run-off from the site.
15. No development shall take place until a plan of the site has been submitted to and approved by the Council indicating the existing and proposed contours, the finished floor level(s) of the proposed building(s) and the position, height and materials of any retaining walls. Development shall be carried out in accordance with the approved plans.  
Reason: To ensure the development takes account of the site's natural features and to safeguard the amenities of the proposed dwellings.
16. No development shall take place until a plan indicating floor levels of the proposed building(s) in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the building(s) integrate(s) into the landform.

17. No amplified or other music shall be played in the premises outside the following times 0900 and 0100 hours.  
Reason: To safeguard the living conditions of residents in adjoining and nearby properties.
18. No deliveries shall be taken at or dispatched from the site outside the hours of 0800 and 1900 nor at any time on Sundays, Bank or Public Holidays.  
Reason: To safeguard the living conditions of residents in adjoining and nearby properties.
19. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboriculture work or tree surgery take place on any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Department. Any arboriculture work or tree surgery approved shall be carried out in accordance with British Standard 3998, 1989 Recommendations for Tree Work.  
Reason: To ensure the continuity of amenity afforded by existing trees.
20. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out in the first planting season after the commencement of development.  
Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.
21. No development including site clearance works, lopping, topping or felling of trees, trucking machinery over tree roots, shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Council and these works shall be carried out as approved. These details shall include: proposed finished levels, existing and proposed contours, means of enclosure, car parking layout, vehicle and pedestrian access and circulation areas, hard surface materials, minor artefacts and structures e.g. street furniture, play equipment, refuse storage, lighting, existing and proposed services above and below ground, retained historic landscape features and proposals for restoration.  
Reason: To ensure the provision of amenity afforded by appropriate landscape design.
22. 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, within 28 days, unless the Council gives its written consent to any variation.  
Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

23. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made or any other works carried out, or fires lit without the written consent of the Department. Protective fencing shall be 2.4m minimum height comprised of heavy duty hoardings, securely mounted on scaffold poles.  
Reason: To ensure the continuity of amenity afforded by existing trees.
24. Details of works for the disposal of sewage shall be submitted to and approved by the Department prior to the commencement of development or other works authorised by this approval.  
Reason: In the interests of public health.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**



Ref: A109890/Planning/MC  
Date: 6<sup>th</sup> February 2019

Democratic Services  
Newry, Mourne & Down District Council  
Monaghan Row  
Newry

By Email ([democratic.services@nmandd.org](mailto:democratic.services@nmandd.org))

Dear Sir/Madam,

**REQUEST TO SPEAK AT PLANNING COMMITTEE MEETING ON WEDNESDAY 13<sup>th</sup> FEBRUARY 2019 IN RESPECT OF PLANNING APPLICATION – LA07/2017/1030/O.**

I refer to the above.

We wish to reserve speaking rights in relation to the **Newry, Mourne and Down District Council Planning Committee Meeting** scheduled for **10am** on **Wednesday 13<sup>th</sup> February 2018** in the **Boardroom, Monaghan Row, Newry**, in respect of:

**Planning Application LA07/2017/1030/O - Site for 100No. bedroom hotel and spa 200 metres East of No. 25 Greenpark Road, Rostrevor.**

Speaking rights are requested on behalf of the applicant, Mr Miceal Tinnelly, for the following people in order to speak in **support** of the planning application:

- **Mr Michael Graham, WYG Planning;**
- **Mr Andrew Bunbury, Park Hood Landscape Architects;**
- **Mr John Cole, Cole Partnership; and**
- **Mr Miceal Tinnelly, Shoreside Developments.**

All the above will attend and one of the above, will act as spokesperson, upon request from the Committee Chairperson.

We also enclose information which we will be speaking to and request it be circulated to the members of the Planning Committee for information purposes.

We trust the above is acceptable and look forward to receiving confirmation or our request for speaking rights in advance of the meeting.

Should you have any queries then please do not hesitate to contact me at this office.

Kind regards.

Yours sincerely,

Matthew Crothers MRTPI

**Associate**

For and on behalf of WYG

Enc.

1 Locksley Business Park, Montgomery Road, Belfast, BT6 9UP  
Tel: +44 (0)28 9070 6000 Fax: +44 (0)28 9070 6050 Email: [belfast@wyg.com](mailto:belfast@wyg.com) [www.wyg.com](http://www.wyg.com)

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## **Speaking Notes for Planning Application LA07/2017/1030/O**

### **Site for 100No. bedroom hotel and spa 200 metres East of No. 25 Greenpark Road, Rostrevor.**

#### **Newry, Mourne and Down District Council Planning Committee Meeting**

**13<sup>th</sup> February 2019**

#### **Introduction**

- My name is Michael Graham and I am a planning consultant and Director of WYG Planning. On behalf of our client, **Shoreside Developments**, I thank you for affording us an opportunity to address Council's Planning Committee.
- We are very pleased that Council's Planning Department has recommended approval of this application.

#### **Principle of Development and Background**

- It is very important to understand that the principle of hotel development at this location has previously been established through planning permission P/2008/1178/O, which was granted on 9<sup>th</sup> November 2011 for a 50No. bed hotel and spa.
- Whilst the previous planning permission for a 50No. bed hotel on the site was obtained, only a 100No. bed hotel meets the hotel operators' requirements for an hotel in this area; thus, submission of this application recommended for approval.
- As you will recall this application was previously brought before the Planning Committee on 6<sup>th</sup> June 2018 with a recommendation to refuse based on landscape and visual impacts, following comments from Department for Communities ('DfC'): Historic Environment Division: Built Heritage ('HED:BH') and Historic Monuments ('HED:HM').
- At the June 2018 meeting it was agreed by the Planning Committee to defer pending submission of further landscape and visual information.

#### **Addressing landscape and visual impacts**

- It was also agreed at the June 2018 Planning Committee that the Planning Officers would meet with us to agree what further information was required to be submitted regarding landscape and visual impact. We met with Council's Planning Officers to discuss the application and provided the agreed further information in support of the application in August 2018.
- The submitted information included a suite of revised drawings, along with a Landscape Visual Impact Assessment ('LVIA') prepared by **Park Hood, Chartered Landscape Architects**, which was requested specifically by Council's Planning Department and by HED:BH and HED:HM.
- This provided several photomontages and visualisations of the scheme taken from: Cloughmore Stone; Greenpark Road; A2/Warrenpoint Road; Drumsesk Road; Carpenham House; Rostrevor House; and Greenpark House, as shown on the attached *visual presentation*.



- The LVIA considered and assessed the predicted effects of the proposed development on:
  - Mourne Area of Outstanding Natural Beauty ('AONB');
  - Local Landscape Policy Area - Designation RR09 of the Banbridge, Newry and Mourne Area Plan 2015 ('BNMAP');
  - Rostrevor Village;
  - Ross Monument;
  - Local road network;
  - Listed buildings and Historic Parks, Gardens and Demesnes of Greenpark House, Carpenham House and Rostrevor House; and
  - The local Rostrevor landscape character generally.
- **The submitted information demonstrated that there are no significant or unacceptable effects deriving from this proposal on the landscape character and setting of these.**
- Following this submission DfC HED was re-consulted and provided further comments in respect of the scheme. A site meeting was requested with the applicant and for further photomontages to be submitted to allow for assessment of the potential impact of the scheme upon the setting of Rostrevor House Historic Park, Garden and Demesne. Further information to clarify finished floor and ridge heights; topographical levels; and retaining wall heights was also requested.
- A site meeting was subsequently held with DfC HED and Council's Planning Officers on 31<sup>st</sup> October 2018, where viewpoints were agreed from which photomontages were to be prepared.
- Following this, all further information was submitted, including 2No. photomontages from two vantage points at the upper northern side and within the Rostrevor House Historic Park, Garden and Demesne as per the locations agreed during the site visit of 31<sup>st</sup> October 2018 (i.e. the closest point). In addition, updated Indicative Sections A-A and B-B were also provided. *This information is shown on the attached visual presentation.*
- DfC HED was subsequently re-consulted and responded on 18<sup>th</sup> January 2019 and both HED:HM and HED:HB confirmed that they are content with the proposal and that it meets the policy tests of PPS6 and the SPPS.
- The information submitted over the past number of months and the positive engagement with Council's Planning Officers and DfC HED has resulted in both confirming that there are no significant or unacceptable landscape or visual effects, nor any significant or unacceptable effects upon built heritage matters deriving from this proposal.
- As this is an outline planning application matters relating to lighting, landscaping and car parking are detailed matters which can be addressed at Reserved Matters stage. Such matters have been appropriately conditioned within the proposed conditions put forward by Council's Planning Officers in their report to this Planning Committee.

### **Overview**

- Clearly, a 100No. bed luxury hotel & spa at this location will complement and assist in confirming the Newry, Mourne and Down area as a key tourist destination.

- I take this opportunity to thank Council's Planning Officers for their help and assistance on this application and thank the Planning Committee for the opportunity to speak and we trust that the Elected Members agree with their Planning Officers in that outline planning permission be granted.
- We would of course be happy, if required, to answer any questions regarding this planning application. I have with me, **Mr Andrew Bunbury** of **Park Hood, Chartered Landscape Architects** and **Mr John Cole** of the **Cole Partnership** and **Mr Miceal Tinnelly** of **Shoreside Developments**.

Thank you.

End.

**LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor**



3D Concept Image No.1

# LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor



Site Location

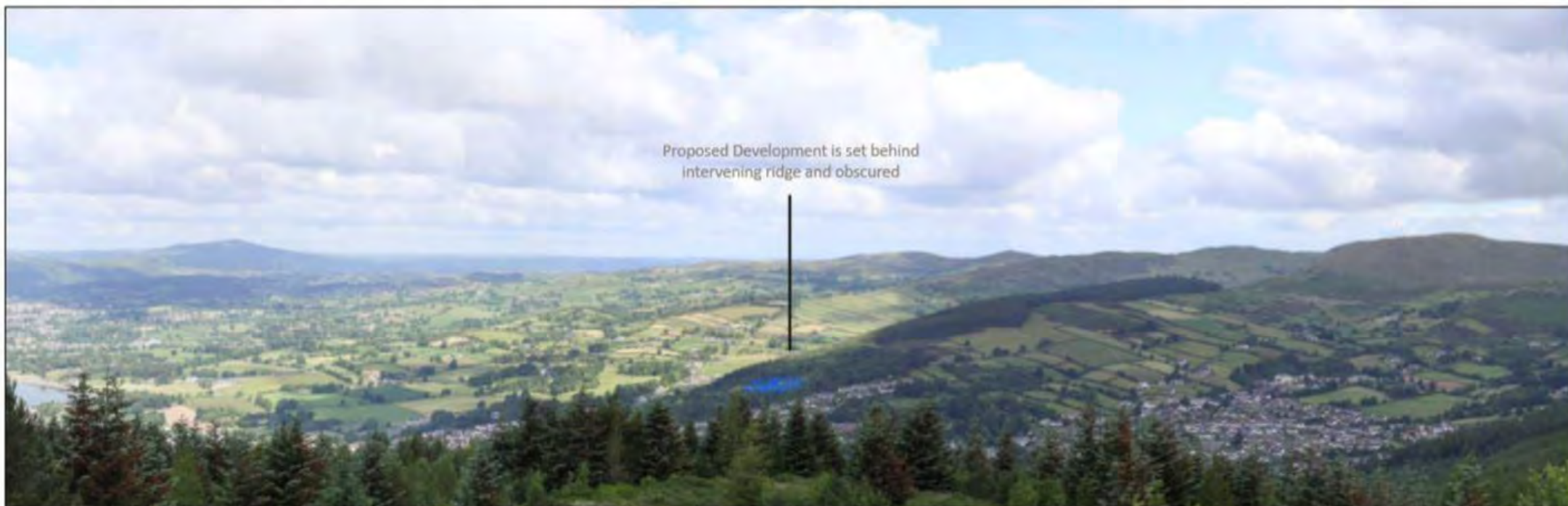


Indicative Layout

# **LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor**

View from Cloughmore Stone.

Development is Set Behind Intervening Ridge and Obscured.

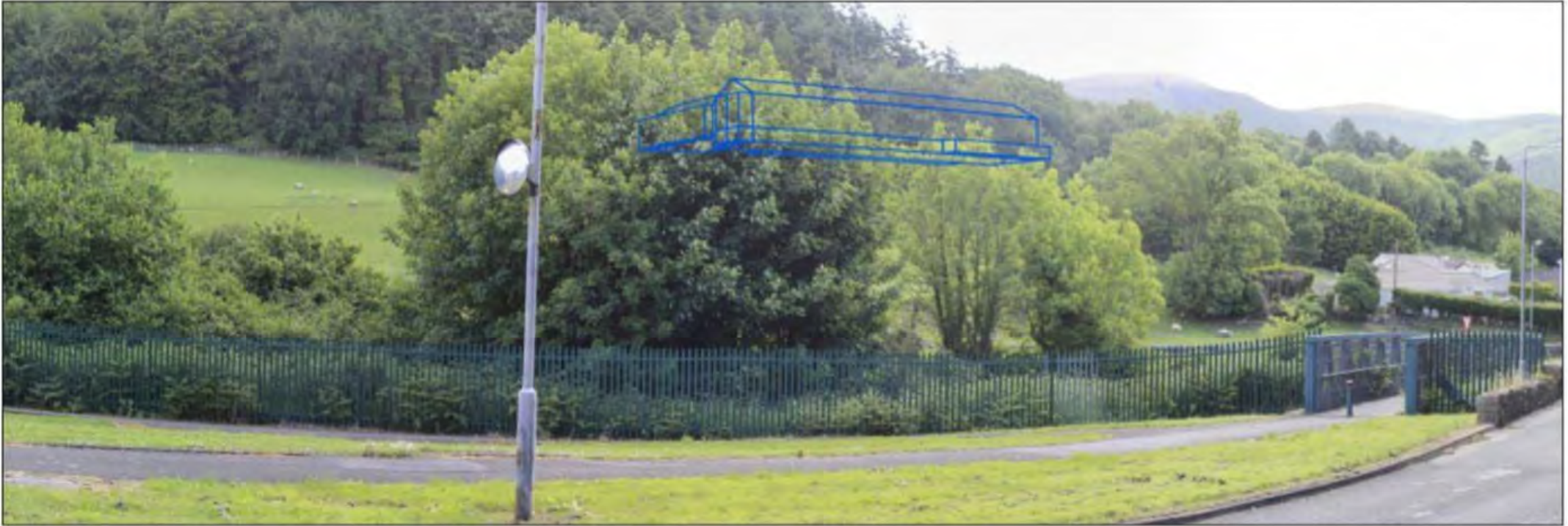


**LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor**

101

View from Greenpark Road/Drumreagh Road.

Development is Obscured by Intervening Ridge and Vegetation.



## **LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor**

102

View from Drumesk Road.

Development is Obscured by Trees in Greenpark Demesne.



# **LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor**

View from Carpenham House.

Development is Obscured by Intervening Vegetation.





# **LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor**

View from Rostrevor House.

Development is Obscured by Intervening Ridge and Vegetation



# **LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor**

View from Rostrevor House & Demesne.



Existing View.



Proposed View – Year 1.

# **LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor**

View from Rostrevor House & Demesne.



Proposed View – Year 5.



Proposed View – Year 15.

# **LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor**

View from Rostrevor House & Demesne.



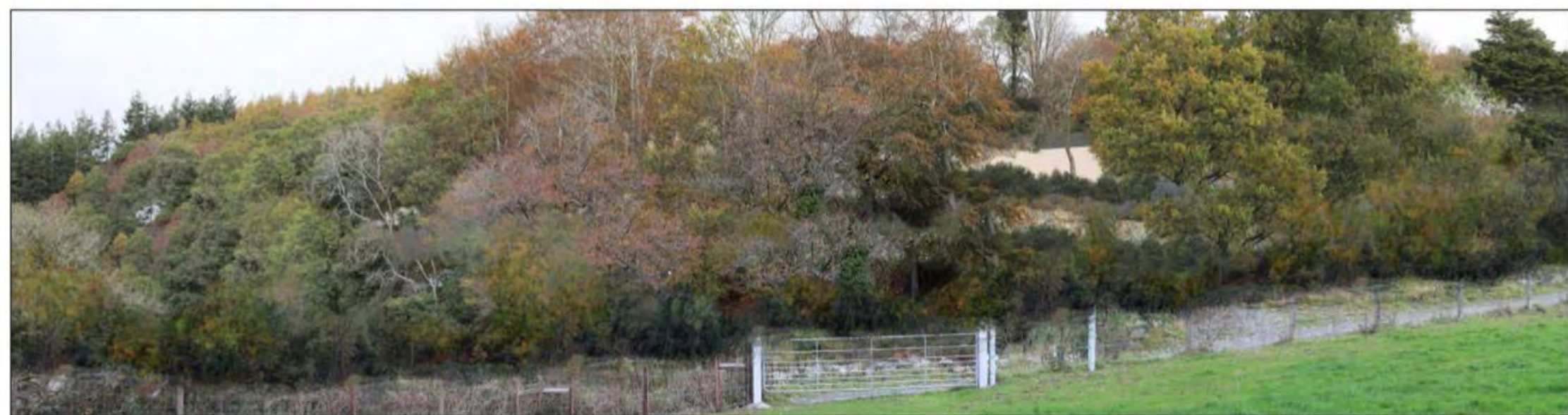
Existing View.



Proposed View – Year 1.

# **LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor**

View from Rostrevor House & Demesne.



Proposed View – Year 5.



Proposed View – Year 15.

# LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor

Indicative Cross Sections.



**LA07/2017/1030/O - 100No. Bedroom Hotel and Spa - Greenpark Road, Rostrevor**



3D Concept Image No.2



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/1934/F

**Date Received:** 06/12/2018

**Proposal:** Proposed new village play park

**Location:** Ballyholland Play Park, 11 Betty's Hill, Newry, BT34 2LY

**Site Characteristics & Area Characteristics:**

The application site is located to the rear of Ballyholland Community Centre. The site is flat and is currently part of a larger grassed playing pitch. The site is located within the settlement limit of Ballyholland and zoned as a major area of existing open space.



*Application Site*



**Planning Policies & Material Considerations:**

This application will be assessed under the following policy considerations:

- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- Planning Policy Statement 8- Open Space, Sport and Outdoor Recreation

**Site History:**

**LA07/2018/0971/F-** Proposed internal goods lift to first floor storage area with new galvanised external escape staircase from first floor at rear of building. Permission granted 14/08/2018.

**P/2012/0618/F-** Proposed alterations, extension and reorientation of existing junior football pitch, with adjacent new 3G multisport pitch, new grass training pitch, provision of new flood lighting, ball stops, dugouts and perimeter fencing with additional car parking and associated works. Permission granted 10/07/2014.

**P/2011/0333/F-** Extension and alterations to existing changing room facilities to provide additional changing rooms, gymnasium and public toilet. Permission granted 16/05/2011.

**P/2008/0651/F-** Erection of community centre consisting of a sports/events hall, I.T. Suite, multi - purpose room, youth club, gymnasium and ancillary facilities. Permission granted 23/04/2009.

**P/2007/0208/F-** Demolition of existing hall and erection of two storey building to include new bar and lounge. Permission granted 10/10/2007.

**P/1996/0691-** Extension to existing G.A.A Club to provide a youth club and weights room. Permission granted 16/05/1997.

**P/1993/0036-** New playing field. Permission granted 26/07/1993.

**P/1986/0784-** Football Pitch. Permission granted 10/10/1986.

**Consultations:** None

**Objections & Representations:**

One neighbour was notified on 27/12/2018 and the application was advertised in three local papers with a statutory expiry date of 23/01/2019. No objections or representations have been received.

**Assessment**

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is the Banbridge, Newry and Mourne Area Plan 2015. The application site is located in the settlement development limit of Ballyholland. It is located within an existing area of open space and is to the rear of an existing community centre.

The proposal is considered to comply with Policy ECU 1 Education, Health, Community and Cultural Uses as the proposal will have no impact on amenity or biodiversity, will not prejudice the comprehensive development of surrounding lands, is in keeping with the character of its surroundings and will have no impact on the access, parking or sewage disposal arrangements. The proposal will have a community benefit for Ballyholland and is considered to be in an appropriate location within the grounds of a community centre.

Policy OS1 of PPS8 states that development that would result in the loss of existing open space or land zoned for the provision of open space will not be permitted. An exception will be permitted where it is clearly shown that redevelopment will bring substantial community benefits that decisively outweigh the loss of the open space. Whilst the proposed play park is located on lands zoned for open space, the proposal will create an outdoors play area which would bring about substantial community benefits for the area. Community consultation was undertaken by the applicant to ascertain where locals would like the play park to be located and 77% of respondents stated they would like it to be located beside the Community Centre. The proposal is considered to be in accordance with Policy OS1 as substantial community benefits would result from the proposal.

**Recommendation:** Approval

**Conditions:**

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

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

**Informatives:**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

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



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** P/2014/0427/O

**Date Received:** 20.05.2014

**Proposal:** Site for dwelling

**Location:** To the rear and south of 2 Berkley Grove Warrenpoint. The application site is included in the Mourne Area of Outstanding Natural Beauty (AONB) and within an Area of Townscape Character (ATC) as defined by the Banbridge / Newry and Mourne area Plan 2015. The application site is within the settlement development limits of Warrenpoint and is approximately 10 kilometres South East of Newry city.

**Site Characteristics & Area Characteristics:**

The site to be developed is located to the rear and south of 2 Berkely Grove, Warrenpoint. The application is irregular in shape and is bordered to the south and west by post and wire fencing, mature hedgerows or definable boundaries to the north and east. Land within the application site rises from the south, the site is not clearly visible from the public road. To the north of the site is Berkely Grove, a small housing development accessed via the Well Road. Access into the application site is proposed through Berkely Grove and between No's. 2 and 4. The access is currently overgrown with trees and shrubs.

The application site is just outside the main town centre. The surrounding area is made up of several large single dwelling plots.

**Site History:**

P/1977/0897	BROSSLEY, WALL ROAD, WARRENPOINT	PROPOSED ADDITION TO DWELLING	PERMISSION GRANTED
P/1986/0126	7 SHANDON DRIVE, KILKEEL	RETENTION OF DORMER WINDOWS IN DWELLING	PERMISSION GRANTED
P/1989/0001	SITE 2 BERKLEY GROVE WELL ROAD	Detached domestic garage	PERMISSION GRANTED

	WARRENPOINT		
P/1987/1229	SITE NO.1 NEW HOUSING DEVELOPMENT OFF WELL ROAD WARRENPOINT	Site for dwelling	<i>PERMISSION GRANTED</i>
P/1983/0216	WELL ROAD, WARRENPOINT	PROPOSED SITE FOR HOUSING DEVELOPMENT	<i>PERMISSION GRANTED</i>
P/1988/0023	WELL ROAD WARRENPOINT	Housing development(11 dwellings)	<i>PERMISSION GRANTED</i>
P/1987/1140	ADJACENT TO ROSEMOUNT WELL ROAD WARRENPOINT	Road lay-out for Housing Development	<i>APPLICATION WITHDRAWN</i>
P/2005/2580/F	Nadaeven, Well Road, Warrenpoint	Extensions to dwelling	<i>PERMISSION GRANTED</i>
P/1980/1006	NADARVEN, WELL ROAD, WARRENPOINT	EXTENSION TO DWELLING TO FORM SELF CONTAINED FLAT	<i>PERMISSION GRANTED</i>
P/1989/4071	'NADAEVEN' WELL ROAD WARRENPOINT	Alterations to dwelling	
P/1997/0202	NADAVEEN WELL ROAD WARRENPOINT	Extension to dwelling and domestic Garage	<i>PERMISSION GRANTED</i>
P/2012/0219/F	Nadaeven, Well Road, Warrenpoint, Newry, BT34 3RS,	Erection of single storey side extension to dwelling	<i>PERMISSION GRANTED</i>
P/2008/0550/F	'The Haven', 8a Well Road, Warrenpoint.	Demolition of existing conservatory and side glazed porch. Construction of new entrance porch and rear extension. Extension to kitchen, utility room and shower room.	<i>PERMISSION GRANTED</i>
P/2004/1406/F	Adjacent to The Haven, Well Road, Warrenpoint	Erection of dwelling, garage, and store room	<i>PERMISSION GRANTED</i>
P/2000/1463/F	The Haven, Well Road, Warrenpoint	Sun room/conservatory extension	<i>PERMISSION GRANTED</i>
P/1992/1277	"THE HAVEN"	Erection of building	<i>PERMISSION</i>

	WELL ROAD WARRENPOINT	to enclose existing swimming pool	<i>GRANTED</i>
P/2005/1830/F	Adjacent to 'The Haven' Well Road, Warrenpoint	Erection of dwelling - change of house type.	<i>PERMISSION GRANTED</i>
P/2011/0924/F	1 Broseley Lane - Formerly Well Road, Warrenpoint,	Extension and renovations to existing dwelling and erection of garage	<i>PERMISSION GRANTED</i>
P/2007/0900/F	Lands adjacent and east of Nos 17-19 and 27-30 Drumsesk Place and adjacent and south of Nos 2 and 4 Berkley Grove, Warrenpoint (on site of existing dwelling known as 'Broseley' ('Brosely') off Well Road)	Erection of 17.No residential units comprising 7 No. private dwellings (revised house types) and 2 apartment blocks, containing 5 No.apartments each with new access road leading onto Drumsesk Place.	<i>PERMISSION REFUSED</i>
P/2005/0631/O	Curtilage of Broseley, Well Road, Warrenpoint.	Site for 4 no. dwellings within the curtilage of existing dwelling "Broseley" with new access for "Broseley" and 4 no dwellings onto Drumsesk Place.	<i>PERMISSION GRANTED</i>
P/1980/0412	4 WELL ROAD, WARRENPOINT	PROPOSED ERECTION OF DWELLING	<i>PERMISSION GRANTED</i>
P/1975/0829	THE HAVEN, 4 WELL ROAD, WARRENPOINT	PROPOSED USE OF LAND FOR ERECTION OF BUNGALOW	<i>PERMISSION REFUSED</i>
P/1977/0318	WELL ROAD, WARRENPOINT	PROPOSED SITE OF TWO DWELLINGS	<i>PERMISSION REFUSED</i>
P/2002/0821/O	Curtilage of 'Broseley', Well Road, Warrenpoint - 125m NW of Well Road, Rostrevor Road Junction	Formation of new entrance onto Drumsesk Place, Warrenpoint and provision of 5 No new dwelling sites for detached dwellings within curtilage of existing	<i>PERMISSION GRANTED</i>

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

The Strategic Planning Policy Statement for Northern Ireland

The Banbridge / Newry and Mourne Area Plan 2015

Planning Policy Statement 7 (PPS 7) - Quality Residential Environments

Planning Policy Statement 7 (Addendum) (PPS 7 Addendum)- Safeguarding the Character of Established Residential Areas

Planning Policy Statement 12 (PPS 12) Housing in Settlements

Planning Policy Statement 3 (PPS3) – Access, Movement and Parking

DCAN 15 – Vehicular Access Standards

### **Consultations:**

There were three consultations issued for this proposal, see details below.

- Department For Infrastructure (DFI Roads) - This application should be refused on grounds of road safety. (09/06/2014). Following receipt of additional information a further consultation was issued to DFI Roads which they responded "taking all matters into account in relation to road safety it is the Department's opinion that this proposal will result in the intensification in use of Berkley Grove" and their refusal comments in the initial response were still appropriate. (25/03/2015)
- NI Water – Generic response (21/07/2014)
- Environmental Health- No objections in principle to this proposal provided as per submission the development is connected to public sewerage system. (13/06/2014)

### **Objections & Representations**

There were seventeen neighbour notifications issued for this proposal. The application was advertised in the local press on 13<sup>th</sup> June 2014. There were two objections letters received which outlined concerns with access and accuracy of the amended P1 form and site location plan. These issues will be addressed in the consideration and assessment section below. One letter of support was received from the occupiers of Brosley.

### **Consideration and Assessment:**

The amended P1 for submitted to the Planning 16<sup>th</sup> December 2014 indicates this is an application for Full Permission, it can be confirmed that that is an application for outline permission only.

A concept plan submitted in December 2014 indicates how the proposed development will sit within the application site. It will be positioned 13 metres west of the adjoining dwelling to the east (Nadaeven) and 19 metres south of the adjoining dwelling to the north (No. 2 Berkely grove) with a F.F.L of 50.7m and will be orientated south.

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 application site and immediate surrounds to the east, west and south are included in an ATC within the Banbridge and Newry and Mourne Area Plan with key features outlined as *"a suburban area of large and medium sized demi-detached and detached houses of varied design set in well landscaped gardens and many with generous plots"*. PPS 6 Addendum Policy ATC 2 states that *"The Department will only permit development proposals in an Area of Townscape Character where the development maintains or enhances its overall character and respects the built form of the area. The Department will also require that any trees, archaeological or other landscape features which contribute to the distinctive character of the area are protected and integrated in a suitable manner into the design and layout of the development."*

Designation as an ATC puts an onus on prospective developers to produce a high standard of design, which respects and is sympathetic to the particular qualities of the area in question. Notwithstanding the acceptability of proposals in terms of other planning issues, the Department will operate a presumption against development that would detract from or fail to maintain the character of the distinct townscape displayed within an ATC. Proposals for residential development are also subject to the provisions of Policy QD 1 of PPS 7 'Quality Residential Environments'. This includes specific reference to ATCs and advises that in such areas: "housing proposals will be required to maintain or enhance their distinctive character and appearance. In the primarily residential parts of these designated areas proposals involving intensification of site usage or site coverage will only be permitted in exceptional circumstances."

This site is located within the ATC WB35 within the Area Plan, and the proposal seeks to subdivide an existing plot to create a small separate residential site within the grounds of Brosely house. This would set a dangerous precedent within the ATC and open other large detached properties up for further redevelopment. The character of the immediate area within the ATC shows distinctly large plots, this proposal would adversely affect this established character and would result in higher density development within an area designated for its detached dwellings on large plots. The adjacent dwellings of Navaeven, Brosley, The Haven and Rosemount are all large dwellings set in large plots accessed from Well Road. This site is significantly smaller than these plots and would be out of keeping with the pattern of development and overall character of the established residential area as outlined by Policy ATC2 of PPS6 (Addendum) and is therefore contrary to the ATC WB 35 zoning of the Newry and Mourne Area Plan.

Policy QD1 of PPS7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create quality and sustainable residential development. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In



established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. In Areas of Townscape Character such as this site the housing proposals will be required to maintain or enhance their distinctive character and appearance. In the primarily residential parts of these designated areas proposals involving intensification of site usage or site coverage will only be permitted in exceptional circumstances.

It is the opinion of the Planning Department that this site is out of keeping with surrounding development in that the adjacent land contains larger dwellings and plots. While it is acknowledged that the housing density within Berkley Grove is at a higher density than that existing within the ATC zoning, it must be recognised that Berkley Grove has the access road running through the development and does not have a back to back development that would be created here between this proposed site and No 2 Berkley Grove.

The access through the housing development of Berkley Grove is unacceptable as it would lead to an access road behind to the side and to the front of No 2 Berkley Grove which would have an adverse impact on the amenity of this property and its privacy. While the dwelling plot may be similar to those in Berkley Grove, it is to the rear of the housing development and is considered to be backland development, which is contrary to the character of the existing surrounding area. The Proposal is therefore contrary to Policy QD1 points a and h. As no exceptional circumstances have been forthcoming to warrant a relaxation of these policy grounds refusal is recommended.

Policy LC 1 of the Addendum to PPS 7 states "*In established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met: (a) the proposed density is not significantly higher than that found in the established residential area; (b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area*"

This proposal would significantly reduce the existing plot sizes within the Well Road ATC and those established within the surrounding area, together with introducing a form and scale of development which is not found within the surrounding area, given that the proposal represents a backland development and this proposal would represent a precedent for introducing a significantly higher density of residential development within the surrounding area. This would open up the remaining large garden sites for future development thus eroding the established character further. While it is acknowledge that Berkley Grove represents a higher density than that within the ATC along Well Road, the spacing between buildings along Berkley Grove is broke up with the presence of the Access road and the fact that none of the properties are back to back but inside have significant distances between the

existing large detached properties and Berkley Grove. Therefore the proposal is contrary to both point a and b of LC 1.

AMP 2 states that *"Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where: a) such access will not prejudice road safety or significantly inconvenience the flow of traffic;"*

The agent has now amended the drawings to show a satisfactory red line and visibility splay to this proposal. DFI Roads having re-consulted DFI Roads on these amendments are now content. This proposal therefore complies with AMP 2 of PPS 3 in that the development would not prejudice road safety subject to conditions.

**Conclusion:**

Given that the proposal falls within a Plan Zoning of a residential ATC and that PPS 7 states that only in exceptional circumstances will new residential development be acceptable in ATC zonings, the Planning department recommend refusal based on the refusal reasons below.

**Recommendation:**

Refusal

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

**Refusal Reasons**

1. The proposal is contrary to Policy QD 1 of the Department's Planning Policy Statement 7 (PPS 7): Quality Residential Environments, in that the applicant has failed to demonstrate that the proposal: (a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale; and (h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance,
2. The Proposal is Contrary to Policy LC 1 of the Departments Planning Policy Statement 7 Addendum: Safeguarding the Character of Established Residential Areas in that it has not been demonstrated that a) the proposed density is not significantly higher than that found in the established residential

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

3. The proposal is contrary to Planning Policy Statement 6 Addendum Policy ATC 2 and Policy ATC WB 35 of the Newry and Mourne Area Plan 2015, in that it has not been demonstrated that the proposal maintains or enhances the overall character of the ATC zoning and respects the built form of the area.

**Application Reference: P/2014/0427/O, Site for dwelling to the rear and south of 2 Berkley Grove Warrenpoint**

**The Proposal, Planning Gain and Some Obvious Omissions From The Officers Report**

This application seeks to build a new dwelling with an access via the estate road at Berkley Grove onto Well Road. The visibility splay at the junction of Well Road and Berkley Grove towards the A2 measures less than 26m. The 4 apartments at Rosemount have practically no lateral visibility. Visibility towards the A2 is blocked by a wall and pillar in front of Rosemount and a hedge owned by the applicant. If outline permission is forthcoming, the applicant is in a position to improve visibility at the junction of Berkley Grove and Well Road to provide a 60m visibility splay. If permission is refused, it is highly likely that this junction will never be improved. The proposed visibility improvement has been welcomed by TNI as it constitutes a very significant planning and road safety improvement. In stark contrast, the officer's report which is supposed to provide the decision makers with an objective overview of the proposal, fails to mention the planning improvement.

The most recent officer's report advises:- *"The adjacent dwellings of Nadaeven, Brosley, The Haven and Rosemount are all large dwellings set in large plots accessed from Well Road"*.

Despite the submission of recently updated OS maps, the officer's report still fails to mention that the plots at Brosley & The Haven have already been sub-divided with new houses built in former gardens and that Rosemount was converted to 4 apartments a long time ago. Furthermore Brosley is now accessed via Drumsesk Place.

The report advises that the proposal *"is considered to be backland development, which is contrary to the character of the existing surrounding area"*.

2a Well Road, which is built in the grounds of Brosley, is an excellent example of backland development. The report has mis-lead the Council by failing to highlight the presence of existing backland development.

The officer's report is not an objective document. It has failed to inform the decision makers in the planning department and the Planning Committee of **all** the important factors which must be considered in deciding this application.

**Refusal Reason No 1**

P/2007/0900/F proposed 10 apartments and 7 dwellings on the site of Brosley. It was recommended for approval after being considered against Policy QD 1 in PPS7. It is therefore difficult to understand the Council's decision to use Policy QD 1 to reject this application which only proposes 1 dwelling.

The proposed new dwelling will sit back to back with no 2 Berkley Grove with a lateral separation of 19.5m. The new boundary that is required lies between the site and Brosley. This boundary was planted with Beech hedging shortly before this application was submitted in 2014. This hedge is now over 6'6" (2m) tall and remains in leaf all year round.

The mature trees, hedging & fence between the application site and Nos 2 and 4 Berkley Grove ensure that the rear of the new dwelling will be very well screened. The mature boundary between Nadaeven and the application site coupled with the vegetation along Well road will ensure that the new dwelling will not be visible from Well Road.

Finally, the shrubs which will be removed to create the access road will be replanted between the access road and the walls which form the boundaries to Nos 2 and 4 Berkley Grove. This approach will help 'soften' these walls. We feel that the application as submitted reflects the surrounding context, character and topography of the site.

If this application were to be approved, the applicant is quite happy to take whatever additional steps are necessary to ensure that the new dwelling respects the surrounding context and to ensure that the new dwelling is in keeping with the character of the area.

The new dwelling will sit 19.5m from No 2 Berkley Grove, 30.5m from No 4 Berkley Grove, 13m from the applicant's home and 25m from Brosely. The separation distances involved are more than adequate. The pre-existing boundaries are well covered with mature vegetation. The new access lane will run between 2 existing brick walls which are at least 1.6m tall. The Beech hedge between the site and Brosley has already matured and is approx 6'6" tall. Taking these factors into consideration, I would strongly contend that siting a new dwelling as shown will not lead to any adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

### **Refusal Reason No 2**

The subject site extends to 1153 m<sup>2</sup>; with the access excluded the remaining plot area extends to 924 m<sup>2</sup>. The plot at No 1 Berkley Grove is 593m<sup>2</sup>, No 2 is 621m<sup>2</sup>; No 4 is 923m<sup>2</sup> while No 6 is 712 m<sup>2</sup>. The new dwelling beside 'The Haven' (south east of the application site) is 1119 m<sup>2</sup>. The former dwelling known as 'Rosemount', which backs onto 2 Berkley Grove has been converted to four apartments. It has a plot area of 1500m<sup>2</sup>. No 2a Well Road which also sits within the grounds of Brosley has a plot area of 2027m<sup>2</sup>. The proposal is clearly in keeping with the density in the adjoining area.

### **Refusal Reason No 3**

The area plan advises that the main features in the Well Road ATC are the well landscaped plots, the large and medium sized houses of varied design and the boundary hedging. The proposed plot is in keeping with many of the plots in the area and the proposed dwelling would be similar in size to many of the houses in the locality. In keeping with the area, all of the site boundaries have already been formed by hedging/trees. As mentioned earlier, the hedge between the site and Brosley is already 6'6" tall. In addition, the mature trees and hedging between the application site and numbers 2 and 4 Berkley Grove would ensure that the rear of the new dwelling would be well screened.

The ATC was proposed in the draft area plan which was published on 22nd August 2006. Application P/2007/0900/F which proposed 10 apartments and 7 houses on the plot of Brosley was submitted after the publication of the draft plan. The refusal decision for P/2007/0900/F which was signed on 19th December 2011 confirms that constructing 10 apartments and 7 houses on the plot of Brosley which is inside the ATC was acceptable.

### **Conclusion**

The applicant and I contend that the most recent officer's report has mis-lead the Council in that it fails to mention the plots inside the ATC which have already been sub-divided.

The report also fails to mention the very significant planning gain and road safety improvement which will be realised by the improvement of the visibility splay at the Well Road/Berkley Grove junction to 60m.

### **The officer's report is clearly not an objective document.**

If permission is refused, it is highly likely that the junction between Well Road and Berkley Grove will never be improved.

The new dwelling will sit on a secluded site, well separated from existing dwellings and will not be visible from Well Road. Against this background it is difficult to understand how the proposal will have a detrimental effect on the ATC or the amenity of the occupants of the existing dwellings.

I will use some maps/photos during my presentation to the committee which will allow me to elaborate on and better explain the points raised above. I would like to thank the Council in advance for the opportunity to speak in support of the application.

Brendan Quinn  
BSc Hon's  
ICIOB

Submission by Cllr Michael Carr in support of planning application P/2014/0427/O

Proposal: Site for dwelling.

Location: To the rear and south of 2 Berkley Grove, Warrenpoint

Applicant: Dr Joseph Mc Givern

This application seeks to build a new house in the grounds of Broseley with access to Well Road via Berkley Grove.

Visibility at the Well Road/Berkley Grove junction is well below what is required.

The applicant, at no small charge, has negotiated with the owner of lands at the junction to remove a pillar & a section of wall in front of Rosemount along with his own roadside hedge which will provide the 60m visibility splay. This visibility should have been provided when Berkley Grove was built.

I, along with many residents in area would be delighted to see the safety at this junction improved.

The junction has been in its current state for many years, since Berkley Grove was developed and during this time Transport NI has never sought to improve the visibility.

We have the opportunity through this application to improve the safety of this junction for the residents of 11 houses in Berkley Grove and 4 apartments at Rosemount.

If permission is not forthcoming, this junction may never be improved. The new dwelling will be sited in a location where it can't be seen from Well Road and it will not interfere with the occupants of existing dwellings.

I would urge the Committee to approve the application.

Cllr Michael Carr.



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## Addendum

**Application Reference:** P-2014-0276-O

Following this application having previously presented to Committee, The Planning Department have received land ownership documents and Health and Safety information.

Following receipt of that information two senior officers conducted a site visit and Identified a site which would still have a slight visual link to the established buildings on the farm. This application is currently with the Planning Department for consideration.

The Planning Department remain of the opinion that this current application should be refused for the reasons identified within the first report.



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an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
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District Council

**Application Reference:** P/2014/0276/O

**Date Received:** 24/03/2014

**Proposal:**

Site for dwelling with detached garage.

The applicant seeks outline planning permission to erect a dwelling and detached garage on a farm.

**Location:**

Approximately 275 metres north west of 79 Aughnahoor Road, Kilkeel.

This site is located in a rural area approximately 1.5 miles north-east of Kilkeel town centre.

**Site Characteristics & Area Characteristics:**

The site, as outlined in red is comprised of six agricultural fields all laid in grass and used for grazing: two of the fields are east of the Aughnahoor Road and four of the fields are west of the Aughnahoor Road. At the southernmost point of the site, west of the Aughnahoor Road, is a small triangular field which is enclosed by traditional drystone walls and has a grass verge adjacent to the site along the roadside. Adjacent to this field, and north-west of it, is a rectangular shaped field which is also enclosed by a drystone wall and some gorse hedging. Further north is a larger field which is enclosed along the roadside by mature gorse bushes and a drystone wall, the remaining boundaries are comprised of a mixture of drystone walls and gorse hedging. The northernmost field on the western side of the Aughnahoor Road is where the preferred site for the dwelling is located. The boundaries of this site are comprised of drystone walls and gorse hedging. A row of ten small trees have been planted halfway along the site adjacent to the preferred site. All the fields on the western side of the Aughnahoor Road are relatively flat and lie slightly lower than the level of the road. The two fields on the eastern side of the Aughnahoor Road are enclosed by a combination of drystone walls and gorse hedging. The gradient of these two fields increases towards the east away from the Aughnahoor Road.

The site is located outside of settlement development limits as defined by the Banbridge / Newry and Mourne Area Plan 2015. The site itself is unzoned however it does lie within the Mourne Area of Outstanding Natural Beauty. The site is not in close proximity to any historic sites or monuments. The main land use in this area is agriculture and there are a number of dwellings and farms located along the Aughnahoor Road.



**Site History:**

One previous planning was submitted on this site (on the western side of the Aughnahoor Road). P/2010/0461/O was refused planning permission on 04/02/2011 for the proposed erection of a dwelling on a farm.

**Planning Policies & Material Considerations:**

This planning application has been assessed under:

- The Regional Development Strategy 2035.
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge / Newry & Mourne Area Plan 2015.
- PPS 2 – Natural Heritage.
- PPS 3 – Access, Movement and Parking.
- DCAN 15 – Vehicular Access Standards.
- PPS 15 (Revised): Planning and Flood Risk.
- PPS 21 – Sustainable Development in the Countryside.
- The Building on Tradition Sustainable Design Guide.

**Consultations:**

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

1. Transport NI – 14/04/2014 – No objections in principle.
2. DARD – 16/04/2014 – Farm has been in existence for more than 6 years and claims DARD support.
3. Environmental Health – 17/04/2014 – No objections in principle.
4. NI Water – 30/04/2014 – Generic response.

**Objections & Representations**

This planning application was advertised in the local press on 01/04/2014 and six neighbours were notified of the planning application by letter. No letters of objection have been received regarding this planning application. Three representations have been received from the agent, Alex Speers, in support of this planning application. The content of these representations has been considered.

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

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently under the remit of the Banbridge / Newry and Mourne Area Plan 2015 as the new Council has not yet adopted a local development plan. Using the above plan, the site is unzoned, located outside of settlement limits and is inside the Mourne Area of Outstanding Natural Beauty. There are no specific policies in the plans that are relevant to the determination of the application so the application will be considered under the operational policies of the SPPS and PPS 21. The impact of the development on the AONB will be considered under PPS 2.

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

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 PPS 21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

Policy CTY 1 states that a range of different types of development are acceptable in principle in the countryside. This includes farms dwellings provided the proposed development is in accordance with Policy CTY 10.

Policy CTY 10 requires three criteria to be met for planning permission to be granted for a dwelling on a farm:

Criterion (a) requires the farm business to be currently active and to have been established for at least 6 years. DARD advised in a consultation response dated 16/04/2014 that the farm business (Ref: 628722) has been established for more than 6 years and it claims the Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment Schemes, which is the main means used to determine if the farm is active. Therefore the business is active and established and is eligible for a dwelling under criteria (a).

Criterion (b) requires that no dwellings or development opportunities have been sold off the farm holding since 25th November 2008. The application was accompanied by full details of the land owned by the farm business. Following a search the land contained in the farm boundary maps it was found that no development opportunities or dwellings have been sold-off the farm since 25 November 2008. The development proposal therefore complies with this criterion.

Criteria (c) requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm and where practical, access should be from an existing lane. As detailed in a statement from the applicant (stamped received 24 Mar 2014), the applicant seeks to erect the dwelling on an alternative site. Criterion (c) allows the use of an alternative site elsewhere on the farm provided there are no other sites available at another group of buildings on the farm and where it can be demonstrated that there are either demonstrable health and safety reasons or else verifiable plans to expand the farm business at the existing building group(s). The agent explains that the sites which would cluster with, or visually link to, the existing farm buildings are only accessible through the farm yard and the agent feels that there are health and safety risks associated these access arrangements. Paragraph 5.42 of PPS 21 states:

*"Where an alternative site is proposed under criteria (c) which is removed from existing buildings on the farm, the applicant will be required to submit appropriate and demonstrable evidence from a competent and independent authority such as the Health and Safety Executive or Environmental Health Department of the local Council to justify the siting."*

No such independent evidence has been submitted from a competent or independent authority in support of an alternative site away from the farm buildings. Also no verifiable plans to expand the farm business were received. The preferred location is an area of open field which has been subdivided prior to the submission of this planning application. There are no buildings for the proposed dwelling to cluster with or be visually linked with. The applicant did submit details showing that some fields adjacent to the farm buildings are out of the applicant's control, however the

agent has not demonstrated the need of an alternative site in accordance with policy requirements. Therefore the proposed development fails so satisfy criterion (c). A new access will also be required to serve the proposed dwelling as no existing lane exists to be utilised.

Policy CTY 10 discusses that planning permission will be granted for a dwelling house on a farm when the three criteria can be met. As criterion (c) has not been met, the principle of the development has not been established. Although the use of an alternative site has not been justified through the required evidence, the preferred site will be considered against the integration policies.

#### Integration

Under Policy CTY 13 of PPS 21, planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and where it is of an appropriate design. The applicant has acknowledged that the preferred site lacks long established natural boundaries and that the site is unable to provide a suitable degree of enclosure for the proposed dwelling to integrate into the landscape as, prior to the submission of this planning application, they planted a new boundary on the site. The agent describes this boundary as substantial in the statement stamped received 24 Mar 2014. Having inspected the site on 31/08/2016, over two years after the receipt of that statement, I would not define that boundary as substantial and indeed if planning approval was forthcoming I would require new planting along this boundary to aid integration. The site at present does not provide a suitable degree of enclosure and relies primarily on the use of new landscaping for integration.

In the context of Policies CTY 13 (integration) and CTY 14 (rural character), the proposed dwelling would be unduly prominent in the landscape and therefore would not integrate and would further erode the rural character of the area. Even if a restricted ridge height was applied the proposed dwelling would be prominent. The Aughnahoor Road is elevated in contrast to the site and as such it would be unduly prominent in sections of this road despite its separation distance from the road and current landscaping. The agent argues that other dwellings in this area lack suitable boundaries and therefore do not integrate. It is important to note that each site and application is to be considered under its own merits. In this instance the provision of a dwelling which does not integrate on the basis that some other dwellings nearby may not fully integrate is not a sustainable approach to be adopted.

Concerns also exist over the ancillary works required with this development, particularly with regards to the access to the site which would cause integration concerns and would further erode the rural character. A driveway will be required to run approximately 75m through an agricultural field to access the site. As this is an outline application, full access details are not required and have not been received; however this access would require boundaries and would create an unacceptable visual impact. The required ancillary works to facilitate this development are contrary to Policies CTY 13 and CTY 14.

With regards to Policy CTY 13, the proposed dwelling also fails to comply with criterion (g) as the proposed dwelling on a farm is not visually linked or sited to cluster with an established group of buildings on a farm.

### Access

A new access will be required, despite Policy CTY 10 preferring access to be obtained from an existing lane. Policy AMP 2 of PPS 3 discusses that planning permission will only be granted for a development involving direct access onto a public road where the access will not prejudice road safety or significantly inconvenience the flow of traffic. Transport NI was consulted and in its response dated 14/04/2014 stated it has no objections in principle to the proposal. Visibility plays of 2.4m by 70m will be required. As there is no evidence that this particular dwelling will prejudice road safety, there is no reason to refuse it on access grounds.

### 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. A standard consultation response was received from NI Water so their informatives will be added to the decision.

### Amenity

It is unlikely that the proposed dwelling on the preferred site would unduly impact on the amenity of any residential property. The impact on amenity would however be fully assessed in a reserved matters planning application.

### Flooding

The application has been assessed under Policy FLD 1 of PPS 15 (Revised) as part of the site lies within a pluvial surface water flood zone. Rivers Agency was consulted and in its response dated 21/11/2016 states it has no reason to object from a drainage or flood risk perspective as the preferred site location does not lie within the 1 in 100 year fluvial flood plain.

### Impact on the AONB

Policy NH 6 of PPS 2 states that planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality. As discussed above, a dwelling on the preferred site would be unduly prominent. The proposed siting is not sympathetic to the special character of the Area of Outstanding Natural Beauty in general and in particular with regards to the locality, which therefore means that the proposed development is contrary to Policy NH 6 as the siting and scale are inappropriate for this AONB location.

### **Recommendation:**

#### *Refusal.*

The proposed development is contrary to Policies CTY 1, CTY 10, CTY 13 and CTY 14 of PPS21 and Policy NH6 of PPS 2.

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

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been

demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane. It also has not demonstrated that health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm and it has not been demonstrated that verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.

2. The proposal is contrary to 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 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, the proposed building relies primarily on the use of new landscaping for integration, the ancillary works do not integrate with their surroundings and the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, be unduly prominent in the landscape and the impact of ancillary works would damage rural character and would therefore further erode the rural character of the countryside.
4. The proposal is contrary to Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the development would, if permitted, be detrimental to the environmental quality of the area by reason of its siting which does not respect the distinctive character and landscape quality of the locality.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0788/F

**Date Received:** 24/05/2018

**Proposal:** Detached storey and a half dwelling and detached garage and associated siteworks.

**Location:** Lands adjacent to and North West of 10 Donaghaguy Road, Warrenpoint, BT34 3RZ

#### **Site Characteristics & Area Characteristics:**

The application site comprises a portion of an existing larger agricultural field located along Donaghaguy Road. The application site rises from 48.4m at the existing agricultural access to the site to 54.8m at the north western corner of the site. Along Donaghaguy Road there is an existing roadside hedgerow which provides screening to the site when travelling from the north west towards the site entrance. The remainder of the site has no defined boundaries. To the south east of the site there is an existing single storey dwelling. The site is located within an Area of Outstanding Natural Beauty.



*Existing entrance to the application site*

**Planning Policies & Material Considerations:**

The following policy documents provide the primary planning context for the determination of this application:

- Strategic Planning Policy Statement (SPPS)
- Banbridge/ Newry and Mourne Area Plan (2015)
- Planning Policy Statement 2- Natural Heritage
- Planning Policy Statement 3- Access, Movement and Parking
- Planning Policy Statement 21- Sustainable Development in the Countryside

**Site History:**

**P/2003/1397/O-** Site for Dwelling. Refusal 27/09/2004.

1. *The proposal is contrary to Policies SP12, GB.CPA 1, GB.CPA3 and HOU12 of the Department's Planning Strategy for Rural Northern Ireland in that the site lies within a Green Belt and the stated personal/domestic circumstances are not considered to be of sufficient weight to justify a relaxation of the strict planning controls in this are*

**P/2007/1675/F-** Erection of Dwelling and Garage. Refusal 02/08/2012.

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 proposed development is contrary to Policy AMP2 of Planning Policy Statement 3 - Access, Movement and Parking in that it would, if permitted, prejudice the safety and convenience of road users since it would not be possible within the application site to provide adequate sight lines where the proposed access joins Donaghaguy Road.*
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.*
4. *Having notified the applicant under Article 7 (4) of the Planning (General Development) Order (Northern Ireland) 1993 that further details regarding design were required to allow the Department to determine the application, and having not received sufficient information, the Department refuses this application as it is the opinion of the Department that this information is material to the determination of this application.*
5. *The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit*

*being considered as an exceptional case in that it has not been demonstrated that: the farm business is currently active and has been established for at least six years.*

**P/2013/0214/O-** Proposed site for agricultural dwelling and garage. Approved 18/06/2013.

The case officer on this application stated that the consultation received from DARD indicated that the farm business has not been established for more than 6 years and that single farm payments are not presently claimed. The case officer also stated that the proposed site is not sited to visually link or cluster with an established group of buildings on the farm. There were also concerns if a dwelling was approved it would lead to the creation of a ribbon of development along the road frontage. The case officer recommended refusal and considered the proposal to be contrary to CTY1, CTY10, CTY8, CTY 13 and CTY14 of PPS21.

At Delegated Group a note was left on the file to outline that weight was given to the planning history on the site in that P/2003/1397/O and P/2007/1674/F were only refused on lack of need. The DC Group were content that the farm is active and established and with a single storey restriction the application should be approved.

This decision included conditions to restrict the dwelling curtilage, restricted ridge height to 5.5m above FFL with a low angle roof pitch not exceeding 35 degrees and an underbuild not exceeding 0.45m, a maximum external gable depth not exceeding 8m and it shall measure no more than 15metres across the front elevation, conditions on finishes.

**LA07/2015/0799/RM-** Agricultural dwelling and garage. Approved 07/09/2016.

The dwelling approved has a ridge height of 5.5m at the highest point and the main bulk of the building is of traditional design. This permission expires 06/09/2018.

**Consultations:**

**Transport NI-** No objections subject to conditions.

**HED-** Content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements

**NI Water-** Generic response provided



**Objections & Representations:**

One neighbour was notified on 04/06/2018 and the application was advertised on 14/06/2018. The neighbour was re-notified on 15/08/2018 and re-advertised on 30/08/2018. No objections or representations have been received.

**Assessment:**

The site lies outside any settlement limits defined by the Banbridge/ Newry and Mourne Area Plan (2015) and within an Area of Outstanding Natural Beauty.

**Strategic Planning Policy Statement for Northern Ireland**

Paragraph 1.12 of the SPPS states that where the SPPS introduces a change of policy direction and/ or provides a policy clarification that would be in conflict with the retained policy the SPPS should accord greater weight in the assessment of individual planning applications. However, the SPPS does not introduce a change of policy direction nor provide a policy clarification in respect of proposals for residential development in the countryside. Consequently the relevant policy context is provided by the retained Planning Policy Statement 21- Sustainable Development in the Countryside. Policy CTY1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

**PPS21- Sustainable Development in the Countryside**

Policy CTY1 of PPS 21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development.

This application is for a change of house type from that previously approved under LA07/2015/0799/RM which is due to expire on 06/09/2018. This application was granted as a farm dwelling under Policy CTY10. As the previous permission was live when this application was submitted, the principle of a dwelling under CTY10 remains established for the purposes of this application. The design, layout and landscaping will be assessed under this application.

The Agent was contacted and advised that there were concerns in terms of the scale and design of the proposal and it was requested that the proposal was redesigned to be in accordance with the Outline Approval P/2013/0214/O. The outline application imposed a 5.5m ridge height, the amended design proposes a ridge height of 5.8m above FFL. There is an entrance lobby and a front hall on the southern and eastern elevations so it is not apparent which will be the front elevation. The dwelling measures 17m in length along the south elevation and 10.9m along eastern elevation, the outline

application imposed a maximum external gable depth not exceeding 8 metres and no more than 15m across the front elevation.

Policy CTY13 relates to the integration and design of buildings in the countryside. It states that a new building will be unacceptable where:

- a) it is a prominent feature in the landscape; or
- b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
- c) it relies primarily on the use of new landscaping for integration; or
- d) ancillary works do not integrate with their surroundings; or
- e) the design of the building is inappropriate for the site and its locality; or
- f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or
- g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.

This application proposes a one and a half storey dwelling with one and a half storey projections. There is a mix of render and Mourne granite proposed on the south elevation along with decorative fascias. I also believe the eaves height lines to be excessively high. These design details are listed as forms to be avoided within Building on Tradition.

A dwelling of the proposed design and scale would appear as a prominent feature in the landscape given the proposed siting on the steep site. The site would rely on new landscaping along the south east, south west and north west elevation to provide any integration and whilst there is an existing mature boundary along the roadside this would not help with views from the south east.

The proposal is considered to be contrary to criterion a, b, c and e of Policy CTY13.

Policy CTY14 relates to rural character and states that a new dwelling will be unacceptable where:

- a) it is unduly prominent in the landscape; or
- b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
- c) it does not respect the traditional pattern of settlement exhibited in that area; or
- d) it creates or adds to a ribbon of development (see Policy CTY 8); or
- e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character

As previously outline the proposal would be unduly prominent in the landscape. I note the extant approval on the site and whilst I believe the proposal would create a ribbon of development I do not think it is reasonable to add this as a reason of refusal given the extant approval.

### **PPS3- Access, Movement and Parking**

Transport NI have been consulted on this application and following amendments are content with the proposal subject to conditions.

### **PPS2- Natural Heritage**

Policy NH6 relates to new development within an Area of Outstanding Natural Beauty. As previously stated the design of the dwelling is not considered appropriate for the locality and is therefore contrary to Policy NH6.

### **Recommendation:**

Refusal

### **Reasons for Refusal:**

1. 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
  - the proposed 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.
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, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

3. The proposal is contrary to Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the development would, if permitted, be unsympathetic to the special character of the Area of Outstanding Natural Beauty.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

The Planning Committee  
Newry, Mourne and Down Council  
O'Hagan House  
Monaghan Row  
Newry  
BT35 8DJ

05<sup>th</sup> February 2019

**Planning Committee Meeting – 13<sup>th</sup> February 2019**

**LA07/2018/0788/F**

**Lands adjacent to and North West of 10 Donaghaguy Road Warrenpoint  
Change of house type to approved reserved matters LA07/2015/0799/RM to detached storey  
& a half dwelling & detached garage and associated siteworks.**

This application was submitted in May 2018. The site was purchased by the present owner with the benefit of full planning permission. The new owner acquired it with the express intention of seeking permission to redesign the approved dwelling.

The current applicant's proposal strayed outside the original permission's ambit in so far as the ridge height exceeded the 5.5m stated in the outline planning approval. The departure from the original permission was not deemed to have been significant by the project architect owing to the small dimensions involved.

The original approval was for a single storey dwelling. Although of limited depth, the dwelling had a significant side profile. The new application was for a 1.5 storey dwelling. The new proposal was only slightly higher than the initial approval and any sense of additional bulk was offset by narrowing the gable depths.

Aware of the impending expiry of the original permission, at an early stage the architect issued several communications to the planning department, requesting a meeting to fully identify the planners concerns, so that in the event any fundamental concerns were raised an opportunity would be afforded to amend the design, if necessary. There was an indication given that reductions to the scheme would be made, to prevent a situation where this application would be recommended for refusal and the original permission would expire. The planning department subsequently issued formal correspondence, outlining its concerns with the proposal. It is

accepted that the applicant's original proposal reflected a dwelling of a scale that appeared greater than the previous approval.

On 09<sup>th</sup> August 2018 the Architect submitted amended plans. The revised plans brought the proposal to within 90mm of the ridge height of the original approval.

Despite a number of further requests for a meeting, none was facilitated. It is appreciated that the planning department offered one opportunity to amend the design of the dwelling, which is consistent with its general approach when seeking amendments. In this case the applicant's agent had anticipated a meeting on the basis that the planning department would not want to take a punitive approach and reject this scheme outright at a point when the original permission would have expired.

This application featured on a list of applications to be determined under the Council's Scheme of Delegation, on 10<sup>th</sup> December 2018. At that time the applicant's agent was on extended leave. Upon reading the case officer report, a revised proposal was duly prepared by the agent's colleague and this was hand delivered to the local planning office, for consideration.

Because of protocol, the revised proposals would appear not to have been considered thus far. The applicant's last submission has not been uploaded to the planning portal and the development management report does not reflect any consideration of the revised proposal.

We consider that the current plans would have satisfactorily overcome most if not all identified concerns, had they been considered by the planning department. Nonetheless, we appreciate the planning department's difficulty in deciding how to proceed: given the revised scheme of delegation had just been introduced we recognise that the planning department would have been loathe to remove an application from the list at the last minute, owing to the introduction of amended plans, as this could have led to a precedent that would see amendments tabled at a late stage in the process of all other applications recommended for refusal. The planning department clearly did not want to engage in such practices given its staffing shortages and its need to speed up the processing of applications. However, from the applicant's perspective, this was not a game of brinkmanship: the initial plans had clearly strayed beyond the original permission's parameters but that does not automatically mean a new application will be unacceptable.

The fundamental issue is that the applicant's agent was not formally alerted to the need remove the first floor from the proposals. He was advised to reduce the ridge height, which he did. When the delegated list was published in December 2018 and the case officer's report was published, it



became apparent that the crux of this matter was that the dwelling appeared like a 1.5 storey dwelling when the original permission was for a single-storey dwelling. It was at that point that the applicant's agent's colleague immediately amended the design of the proposal, making significant reductions to the front and side profiles of the dwelling.

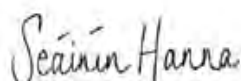
Because we believe that the current revision has not been formally considered we believe that deferral of this decision would be appropriate. We also confirm the applicant's willingness to make further concessions/ revisions to the design of the dwelling if this is deemed necessary by the planning department, because if this application is rejected the original permission will have lapsed and we believe the Council will not want to see the applicant suffer financial hardship, as the site was purchased with their own savings so that they could build a bigger home for their children.

In concluding, we apologise for the fact that two sets of amended plans had to be submitted. We would emphasise that the first revision was not a token reduction, and the agent was genuinely unaware that he was required to reduce from 1.5 storey to single-storey. He believed the concern was the height of the building and at all times he endeavoured to respect the 5.5 metre height restriction originally imposed.

We believe that if the concern regarding the perception of a first floor had been relayed to the agent earlier, this matter could have been attended to sooner, and equally, had the requests for a meeting been acceded to then the issues of concern would have clearly identified. Notwithstanding, we believe that the case can finally be resolved through the consideration of the revised plans and the subsequent delegation of a decision back to planning officers so that this will not take up more of the Committee's time.

In the event that the Committee or indeed the planning department requires further information, clarification or amendments, please do not hesitate to contact this office.

Signed:



**Seainin Hanna**  
Town Planner  
BSc Hons MSc



**RTPI**  
Chartered Town Planner



**APPENDIX 1**

Marked up copy of amended plan hand delivered in December 2018.

The red line illustrates the outline of the originally approved dwelling. This has been overlaid onto the revised proposal.



**RTPI**  
Chartered Town Planner







Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/0810/F

**Date Received:** 30.05.17

**Proposal:** Creation of new car park to provide additional car parking facilities at existing commercial premises, erection of bridge across Newry River, erection of perimeter fencing, erection of totem sign and associated site works.

**Location:** Approximately 60metres north of 9 Shepherds Way, Carnbane, Newry

**Site Characteristics & Area Characteristics:**

Site comprises of a vacant portion of land within an existing industrial estate immediately W of an existing watercourse.

**Site History:**

LA07/2017/0280/F - Retention of existing site access as permanent access to development. (East of application site) (Granted)

P/2014/1040/F - Temporary road entrance. (East of application site) (Granted)

P/2006/1790/F - Erection of factory. (East of application site) (Granted)

P/2005/0083/F - Erection of factory for the manufacture of specialist joinery for international ship out-fitting and general shop-fitting with office and administrative block, ancillary accommodation, parking provision, heli-port facilities and associated site works. (East of application site) (Granted)

P/1996/0735 - Provision of Access Bridge and Estate Road for Industrial Estate. (East of application site) (Granted)

**Planning Policies & Material Considerations:**

Banbridge/ Newry and Mourne Area Plan 2015: Inside the development limits of Newry, Local Landscape Policy Area (NY114), Existing Area of Economic Development and Zoned Economic Development

**SPPS and PPS2: Natural Heritage**

NIEA in comments dated 07.01.19 advise that on the basis of information provided they have no concerns.

**PPS3: Access Movement and Parking, Parking Standards and DCAN 15: Vehicular Access Standards.**

Transport NI in their consultation response dated 04.12.18 have raised no objections.

**SPPS and PPS6: Planning, Archaeology and The Built Heritage (BH1 – BH4, paragraphs 2.23 and 2.4)**

HED in comments dated 19.09.18 is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works.

**SPPS, Area Plan (NY114) and Local Landscape Policy Areas**

The local landscape policy area comprises of Newry River and canal corridor, associated vegetation and trees as well as archaeological sites and monument. The development proposals are confined within an existing industrial estate that the development will not detract from its appearance. Proposals incorporate a pedestrian bridge along the river corridor; consultees have not expressed any concerns with regard to nature conservation interests or tree loss. Overall proposals can be adequately integrated without adverse impact upon the setting of the LLPA.

**PPS15: Planning and Flood Risk****FLD 1: Development in Fluvial (River) and Coastal Flood Plains**

Amendments received 16.11.18 show that the bridge deck and soffit are above the Q100 flood level and therefore lie outside the area of risk. DFI Rivers are now satisfied with the 600mm freeboard incorporated into development proposals, and as such the exceptions test does not have to be enacted

**FLD2: Protection of Flood Defence and Drainage Infrastructure and FLD4: Artificial Modification of Watercourses**

Rivers Agency in comments dated 08.01.19 advised they are now satisfied that concerns raised by them regarding access and future on-going maintenance have been addressed by amendments.

**FLD3: Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains**

A drainage assessment has been submitted and considered by Rivers Agency whilst Rivers Agency are not responsible for the preparation of that report, it accepts its logic and has no reason to disagree with conclusions. Rivers Agency does not object to the development from a drainage or flood risk perspective.

**FLD4: Artificial Modification of a Watercourse** - The scheme requires Schedule 6 approval from Rivers Agency which is outside the remit of Planning.

#### **FLD5: Development in Proximity to Reservoirs**

The development is situated within the inundation path of Bessbrook Pond as well as Camlough Lake. Additional information was submitted to Rivers Agency advising of the condition, arrangement and maintenance regime to provide assurance of reservoir safety which was accompanied with flood risk assessment in line with the requirements of FLD5. DFI Rivers in comments dated 08.01.19 advise that they have no reason to disagree with the comments of the FRA. The Planning Authority are content with information provided in the Flood Risk Assessment to satisfy the requirements of FLD5.

#### **DES2, Area Plan (Land zoned for economic purpose) and DCAN 11: Access for All**

Land where the car park is proposed has lain vacant for some time and has not been utilised for the purpose of economic development. The car park will serve as an overflow to an existing and well established economic development located to the east with land use acceptable and will be ancillary to this existing land use.

Proposals involve landscaping along the road frontage which will help to soften the visual appearance of the car parking area. Furthermore the pedestrian bridge has been reduced in scale from its original submission and presented as a much simpler design; set to the north of the existing vehicular bridge will not appear misplaced in this river corridor. There remains adequate provision within the existing MJM site to serve those whose mobility is impaired.

#### **Area Plan (Land zoned for economic purpose, SPPS and PPS4: Planning and Economic Development (PED 7: Retention of zoned land and economic development uses)**

Land for the proposed car park and bridge will link eastern lands which are currently zoned within the area plan for economic use. Whilst the development will result in loss of existing economically zoned land. It will nevertheless serve the existing economic development use and not necessarily lead to a diminution of economic land uses within the industrial estate.

#### **Impact to European Sites**

This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Newry, Mourne and Down District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.

Having considered the nature, scale, timing, duration and location of the project it is concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on the site integrity of any European site.

**Consultations:****Rivers (08.01.18):**

FLD1 – Satisfied 600mm freeboard provision under DMRB recommendations has now been provided.

FLD2 – Satisfied concerns raised regarding access and future maintenance has now been addressed.

FLD3 – Drainage Assessment only lacks consent. Rivers accept logic of report  
FLD4 - Access bridge will require Schedule 6 approval

FLD5 - Applicant contacted owner of reservoir and demonstrated condition, management and maintenance regime is appropriate to provide sufficient assurance regarding reservoir safety. DFI cannot make comment on the acceptability of the flood evacuation plan.

**HED (19.09.18):** Content subject to conditions

**NIEA (07.01.19):** On the basis of the information provided, has no concerns

**Foyle Carlingford Irish Lights Commission (16.01.19) –** No objections

**Transport NI (04.12.18) –** No objections

**SES (10.12.18) –** No objections

**Fisheries (27.07.17) –** No objections

**Invest NI (06.07.17) –** No comment

**Objections & Representations****Objection:**

D. Berry - 18 Rathmore Rd

R. Mc Camley - 28 High Street

T Holmes - 9 Latt Villas

M Thompson - 59 Cloghanramer Road

R. Ferris - 21 Ashgrove Road

C. Burns - 52 Fountain St, Bessbrook

G Berry - 59 Cloghramer Road

**Issues:**

- Granting of the application will make it impossible to walk a large section of the river bank
- Holders of riparian or fishing rights, strive to main and develop their river for purpose of angling
- Block access along the river
- A bridge across the river will block the rivers agencies and machinery from carrying out maintenance work
- Request for speaking rights

**Consideration of Objections:**

- The public right of way has been checked with the Public Rights of Way Officer of Newry, Mourne and Down District Council and the application site is not bounded by any public right of way. The applicant/ agent have completed certificate A of the P2 form which claims full ownership and control of the said lands delineated in red therefore the any rights of access is a civil matter outside the remit of the Planning Authority.
- Amended plans provided indicate areas within the proposed car park which will allow access for Rivers Agency personnel. Rivers Agency have also acknowledged their ability to access for maintenance and management purposes.
- Due to the number of objections received the application will be presented before the Planning Committee. The objector will be advised in writing of the recommendation to be put before committee however to exercise speaking writes the onus is on the objector to make contact with the council to avail of this opportunity.

**Consideration and Assessment:**

It has been recommended to approve the application taking into account consultee responses as well as an assessment against planning policy. The objections submitted have been fully considered however objections primarily relate to rights of access which are a civil matter outside the remit of the Planning Authority.

**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. All surface water run-off during the construction phase shall be directed away from the watercourse.

Reason: To prevent any polluting discharges at construction phase travelling to the hydrologically connected European Sites.

3. A suitable buffer of at least 10 metres shall be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the red line boundary.

Reason: To prevent any polluting discharges at construction phase travelling to the hydrologically connected European Sites.

4. The vehicular access, including visibility splays and forward sight distance shall be provided in accordance with amended plan drawing No. .... bearing the date stamped ..... prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

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

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

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

Reason: to monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any

other specific work required by condition, or agreement is satisfactorily completed.

8. The use of the car park and bridge shall not become operational until a landscape management and maintenance plan has been submitted to and approved by the Council.

The plan shall set out the period of the plan, long term objectives, management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space. The landscape management plan shall be carried out as approved.

Reason: To ensure successful establishment and on-going management and maintenance in perpetuity of the landscaped and open space areas in the interests of visual amenity.

9. No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development.

Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape.

*Case Officer*

*Authorised Officer*

*Planning Application LA07/2017/0810/F*

*River restricted and deepened 1974/1976. Four bridges constructed. No provision for Anglers or Walkers (despite repeated requests) Most pollution incidence are reported by the public. No public access leaves the river vulnerable to unauthorised discharges in the water course which can and do occur from the many drains that discharge into the river.*

*The river has been forgotten by Newry Council and is an eye sore in the town stretch. Restricting access will only make thing worse on this once beautiful stretch of water.*

*David S. Berry*



*Planning Application LA0/2017/0810/F*

*In respect of this planning proposal we are not objecting to the creation of a new car park or bridge across the Clanrye River. We are objecting to a perimeter fence that blocks access to the river bank. As a Stake Holder in Neagh Bann water catchment area consisting of nine districts one which is Newry/Carlingford catchment area. Stake holder access is required to check the state of the river. European Union will impose fines if water quality falls below their target standard. This is a trout and salmonid river designated by the European Union.*

*I propose a site meeting to discuss my solution which I believe will be satisfactory to both parties.*

*George Berry*

I would like to request speaking rights on behalf of MJM Group in support of application LA07/2017/0810/F which is due before the Planning Committee on 13<sup>th</sup> February 2019.

I would like to outline the economic case for this bridge and carpark. I would also like to mention the engagement that has taken place with Newry and District Anglers Association. Donald Walker, Committee Member of Newry and District Anglers Association will share these speaking rights with me if further information is required from the local Angling Association.

Thanks

Kind Regards

Deborah Loughran



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2015/0149/F

**Date Received:** 09.04.15

**Proposal:** Change of use of building to provide for storage and distribution of fuel with alterations, and new bulk fuel tank in yard.

**Location:** Site between 54 & 58 Edenappa Road, Jonesborough

**Site Characteristics & Area Characteristics:**

Site comprises of an existing yard and buildings sited between two existing residential properties fronting onto Edenappa Rd.

**Site History:**

LA07/2015/0154/F - Retention of change of use of farm buildings for the storage and repair of vintage cars. Lands between 54 and 58 Edenappa Road Jonesborough. Granted (Application site)

P/2009/1496/F - Retention of existing fire damage replacement shed. Granted (Adj and NE)

P/2008/0195/CA – Erection of replacement shed. Adjacent to 54 Edenappa Road Jonesborough(Adj and N of 54)

P/1985/0622 – Petrol filling station. 52 Edenappa Rd, Jonesborough. Granted (Adj and N of 54)

P/1985/0043 – Site for extension to petrol filling station. Withdrawn (Adj and N of 54)

**Planning Policies & Material Considerations:**

**Additional Information Provided:**

Information submitted 04.05.16 includes a letter outlining that proposal that the site has a historic transport/ haulage business operating from the site. Proposals involve

oil for storage and distribution and will not involve the retail sale of fuel from the premises. As sui-generis use rather than Class B4

The applicant operates a large farm business, which consumes a substantial quantity of fuel itself notwithstanding his haulage activities. The storage of oil would appear as a natural form of diversification in this case - buying larger quantities of fuel can help the applicant save money in the running of his farm business while the sale of fuel (albeit of the premises) will boost the farm income.

**Banbridge/ Newry and Mourne Area Plan 2015:** The site is within the open countryside within an AONB - The proposal is contrary to the Local Development Plan as it falls outside the Town Centre Boundary / retail area and areas zoned for economic development as designated in the Banbridge / Newry and Mourne Area Plan 2015 and should be refused on this basis

### **Development within the AONB (SPPS and PPS2)**

The overall proposed use is out of context with the rural setting of the AONB, due to its suburban nature the development is better placed in an urban context.

**PPS3, DCAN 15 and Parking Standards:** Whilst Transport NI has raised no specific objection they have requested additional information. There appears to be sufficient parking and turning for vehicles within the site.

### **SPPS and PPS21 (CTY1)**

The policy provides a list of non-residential uses which may be deemed acceptable within the countryside; this includes provision for farm diversification in accordance with CTY 11 and the conversion and reuse of existing buildings under CTY4. 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 commercial nature of proposals this type of development is better suited to an urban location and not an expected use within the open countryside. 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

### **SPPS and PPS21 (CTY4)**

The policy allows for non-residential buildings in rural areas to be converted for a variety of uses subject to all criteria being satisfied.

Given the commercial nature and scale of proposals this type of development is better suited to an urban location and not an expected use within the open countryside of an Area of Outstanding Natural Beauty. Due to the nature of the development proposed including the level of activity generated will inevitably affect the amenity of nearby residents due to noise and general nuisance.

Whilst the agent has set out justification against this policy in that the proposed use is not likely to result in an increase in levels of noise or nuisance or general disturbance as its previous use was that of a haulage business (note - no planning history associated with this enterprise) and in terms of amenity impact the nearest neighbour affected is the farmstead. There has also been precedent set by other similar type fuel storage outlets although acknowledged not all local operators benefit from planning approval are unauthorised and/ or unlawful however the existence of so many facilities confirms proposals are not appropriate to the countryside.

Despite this the previous use has not had the benefit of planning permission therefore there is no justifiable basis for the continuation of a commercial enterprise including that for the storage and distribution/sale of fuel which is inappropriate to its rural location. Whilst the agent has said the nearest neighbour to be affected is the homestead irrespective of this the use will generate activity which will have a wider impact to the amenity of residents along Edenappa Road.

Proposals fail to meet criteria d and e of CTY 4 and in failing to do so fail to meet all the criteria set out within this policy.

### **SPPS and PPS21 (CTY11)**

The policy allows for appropriate farm diversification schemes to be approved on an active and established farm where they are to be run in conjunction with the existing agricultural operations on the farm, involve the re-use or adaptation of existing buildings on the farm and are appropriate for the location. Further clarification is given in paragraph 5.47 however the policy aims to promote forms of diversification that are sustainable in the countryside, including sustainable tourism or agri-tourism schemes.

Additional guidance is provided in the supplementary planning guidance "Farm Diversification and Planning Permission," which lists a number of business development schemes which may be acceptable. Although the list is not exhaustive it can be deduced from the examples given that to be an appropriate farm diversification proposal it must have a link to a local, rural based activity.

The applicant has submitted additional information stating that he operates a large farm business which consumes a substantial quantity of fuel, it is claimed that this makes the fuel business a natural form of diversification as buying a larger quantity of fuel can help him save money in the running of his farm business, while the sale of fuel off the premises will boost the farm's income. The registered farm holding is located in Dundalk, Co. Louth with proposals to be located at Edenappa Rd approximately 10 miles away from the principle holding, although the applicant has indicated that he owns/ controls adjoining lands there is insufficient evidence or justification that proposals are run in conjunction with this farm business. The proposals are a separate entity and can operate independently from the farm business.

In support of his submission the applicant has provided a list of previous planning decisions in which permission was granted for a number of farm diversification proposals, two of these, P/2008/0850 and P/2011/0319 are distinguishable as they

were for the production of bio fuels and flax oils which were produced from crops grown on the farm.

The applicant also makes reference to an approval for the retention of an oil business on Ayalogue Road under P/2012/0383, in reconsideration of this application the then planning authority decided to grant permission given the small scale of the yard and the fact that it was already established in the area. However, in this particular case the building is established but the use is proposed these circumstances are different.

The operation of a fuel business will form a new commercial venture at this location which is not an expected land use within the open countryside of the AONB and is better located within the context of an urban setting. Furthermore its operation will necessitate a significant number of movements to and from the site which is not appropriate to a rural area and as such will impact upon the amenity of surrounding residents through additional activity, noise and nuisance. Proposals fail against the CTY11.

### **Retailing (SPPS)**

The policy emphasises that retailing should be directed towards town centres although consideration is given to appropriate retail facilities such as farm shops, crafts shops or shops to serve tourist/recreational facilities. The retail sale of fuel is not deemed to be an appropriate retailing facility within the countryside. The business can operate as a separate entity outside of the farm holding and is not tied to it therefore it is not an acceptable use at this rural location and not in compliance with planning policy. This is a position supported by a decision made by the Planning Appeals Commission in relation to this matter. (2014/E0048 and 2016/A0139)

**SPPS and PPS4 (PED 2: Economic Development in the Countryside, PED 3: Expansion of an Established Economic Development Use in the Countryside, PED4: Redevelopment of an Established Economic Development Use in the Countryside, PED 5: Major Industrial Development in the Countryside and PED6: Small Rural Projects and PED 9: General Criteria for Economic Development)**

In supporting information submitted the agent has advised that proposals are part of a farm diversification scheme to which proposals should be considered under CTY11 of PPS21.

However as development involves storage and distribution with no evidence that proposals are in conjunction with the existing agricultural operations of the farm thus failing to meet the requirements of CTY 11, the provisions of PPS4 are deemed applicable in this instance.

PED 2 makes reference to economic activity within the countryside which will be allowed in a number of instances however this must also be in accordance with policies PED 3, PED4, PED5, PED6 and PED9, where development fails to comply with the requirements of these policies then proposals will ultimately fail to comply

with PED2. PED2 indicates that with exception of the instances cited all other proposals will only permitted in exceptional circumstances.

Policies PED3, PED 4, PED5 and PED6 of PPS4 do not appear to be applicable in this instance. Although there is provision for economic development in the countryside this is only in the event of exceptional circumstances to which this has not been adequately demonstrated.

The application fails to adhere to policy and there is no exceptional case demonstrated to support such proposals, therefore the application fails meet PED2.

### **PED 9**

The site is located within a rural location which is characterised by agricultural fields with a number of residential properties; the commercial venture at this location is incompatible with those surrounding land uses and would be better located within the context of an urban setting. Furthermore the use of such facilities within close proximity to existing residential properties will have a detrimental impact on amenity due to noise and general nuisance.

The site is located within a designated AONB with use having suburban form which is out of keeping with the rural setting detracting from its appearance. Thus the application fails to meet criteria a, b, c and e.

### **Impact to Amenity (4.11 and 4.12 of the SPPS)**

Environmental Health in their consultation response dated 7<sup>th</sup> September 2015 has raised no concerns. However, due to the nature of development at the site which includes the storage/ distribution of oil, deliveries and sale of fuel the Planning Authority would have concerns regarding the level of activity generated by this commercial venture as well as resultant impact to surrounding neighbours through general nuisance and noise therefore recommending refusal on this basis.

### **Consultations:**

Transport NI (30.03.16) - Revised plan required

DARD (19.10.15) - Farm business i.d for more than 6 yrs, SFP in last 6 yrs

EH (07.09.15) - No objection in principle should applicant wish to sell petroleum then a licence is required

## Objections & Representations

6 neighbour notifications

No objections received

Advertised May and Nov 2015

## Consideration and Assessment:

The proposal seeks to utilise an existing building for use as the location for a fuel distribution business along with a new bulk fuel tank.

The agent has provided supporting information (statement 14.04.15 and letter 04.05.16) to demonstrate how proposals meet the requirements of policy. Despite this there is no exceptional case for the development within the open countryside of the AONB that it could not be located within a settlement, thus proposals fail policy requirements of the SPPS and PPS21 (CTY1).

Whilst it is acknowledged that proposals will result in the reuse of an existing building. The intended use and nature of proposals along with the impact that it will have upon the amenity of surrounding residents is an inappropriate use which is better suited to an urban location.

In consideration of the farm diversification case whilst the agent has provided justification, it has not been demonstrated nor is there any convincing evidence that proposals will be run in conjunction with the agricultural operations of the farm and therefore does not fulfil the requirements of policy in this regard (SPPS and CTY11).

Whilst the SPPS identify acceptable retail uses within the countryside these proposals clearly do not meet such criteria and thus fail against policy.

Although there is provision for economic development in the countryside this is only in the event of exceptional circumstances to which this has not been adequately demonstrated under PPS4, thus the application fails to adhere to PED2 and PED9.

The area is designed as an Area of Outstanding Natural Beauty whilst the agent has identified a number of similar type businesses operating within the vicinity these are unauthorised. Such uses are already inappropriate at this rural location, they do not set precedent or justification for the continuation of such inappropriate uses to detract from this designated area. Thus proposals are contrary to SPPS and PPS2.

Despite the consultation from Environmental Health the Planning Authority do have concerns regarding the impact of such proposals upon the amenity of neighbours within the vicinity through by the creation of a commercial venture which will generate additional activity at this location and therefore recommend it is also refused on this basis.

Overall proposals fail to meet the requirements of policy provision within the SPPS, PPS21, PPS2 and PPS4 as outlined above and therefore it is recommended to refuse the application.



**Recommendation:**

Refusal

**Refusal Reasons:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the nature and scale of the proposed non-residential use is not appropriate to a countryside location and will have an adverse impact upon the amenity of nearby residents.
3. The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations on the farm and the character and scale of the development is not appropriate to its location.
4. The proposal is contrary to paragraphs 6.279 of the Strategic Planning Policy Statement in that the site lies within the open countryside and no special need has been demonstrated to justify relaxation of the strict planning controls exercised in the countryside.
5. The proposals are contrary to the Strategic Planning Policy Statement and Policies PED 2 and PED 9 of Planning Policy Statement 4: Planning and Economic Development in that no exceptional circumstances have been demonstrated to justify relaxation of planning controls in this countryside location.
6. The proposal is contrary to the Strategic Planning Policy Statement paragraphs 4.11 and 4.12 in that the proposed development would if permitted harm the living conditions of residents of Edenappa Road by reason of noise and general nuisance.
7. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy NH6 of Planning Policy Statement 2: Planning and Nature Conservation (PPS2) in that the site lies within an Area of Outstanding Natural Beauty (AONB) and the use and operations are not sympathetic to the character and appearance of the AONB.

8. The proposal is contrary to the Local Development Area Plan as it falls outside the town centre boundary, retail area and areas zoned for economic activity as designated in the Banbridge/ Newry and Mourne Area Plan 2015.

Case Officer

Authorised Officer

The Planning Committee  
Newry, Mourne and Down Council  
O'Hagan House  
Monaghan Row  
Newry  
BT35 8DJ

05<sup>th</sup> February 2019

### Planning Committee Meeting – 13<sup>th</sup> February 2019

#### Planning Application LA07/2015/0149/F

Site Between 54 & 58 Edenappa Road, Jonesborough.

**Change of redundant building to storage and distribution of fuel with alterations, and new bulk fuel tank in yard.**

#### Applicant's Background & History of this planning application

This application is nearing four years old. On a number of occasions a meeting has been requested but none has been forthcoming. Updates have been sought at regular intervals and while it was evident that concerns were held in relation to the application it was not until the Committee Schedule and Case Officer Report were published that the concerns were formally laid out.

At the outset, we believe that the application is affected by the stigma that is attached to fuel in this area. While there have been numerous incidences of unauthorised fuel sales in this wider area, the applicant has no such history. This applicant is a *bona fide* farmer and haulier, who wishes to be afforded the opportunity to diversify his farm business through the reuse of redundant buildings on the family homestead. Indeed, he has already been granted permission for commercial use within this farm complex (the storage and repair of vintage cars which are hired out for commercial purposes). This venture is being pursued primarily by the applicant's son, who as well as having a full time job in the medical profession works on the family farm also.

In the past, when the UK government introduced new levies upon the haulage sector the applicant was forced to register his haulage fleet at his home address in County Louth. The applicant's home is located a matter of minutes away from the farm, just across the border into County Louth, at Plaster, Mountpleasant. This is located to the north of Dundalk but his haulage activities are undertaken on a cross-border basis, as his farm business.



RTPI  
Chartered Town Planner



### Anomalies with planning report

From our reading of the case officer report (COR) that has been published on the Committee's schedule, we believe that some of the concerns expressed are not sound or valid. For example, one refusal reason indicates that retailing is not acceptable (at this site or in the countryside), despite the fact that this is not a retail use. There will be no point of sale on this site. For the avoidance of doubt, the applicant does not seek permission to operate fuel pumps, or to facilitate private cars or road vehicles purchasing fuel at this site. Private customers will have no reason to attend this site. This can be governed by planning condition or legal agreement if necessary.

Whereas the COR indicates that commercial use is not acceptable on this site, commercial use has already been granted on a different part of this site (the storage and repair of vintage cars, which are hired out commercially). On that basis, it appears unreasonable to now suggest that storage use is not acceptable or is out of character.

There is in all likelihood a fear that approval of this application would create a precedent that would trigger a flurry of applications for retail sale of fuel, and there are many incidences of such operations locally, with or without planning approval. Concerns of that nature would be misplaced. This applicant does not seek permission to sell fuel from the premises, and although the planning report refers to a previous approval for a petrol filling station granted at 52 Edenappa Road (P/1985/0622) that is of no relevance to the current proposal.

It is said that the use and operations proposed are not appropriate to this Area of Outstanding Natural Beauty (AONB). However, there will be no visible signs of this use, which is contained entirely within an existing building, while parking areas are completely hidden by other buildings within this complex.

The COR indicates that the proposal would harm living conditions of residents on Edenappa Road, by way of noise and general nuisance. However, Environmental Health has no objections, undermining the planning officer's assessment. The planning report indicates that the nearest dwelling is the farmstead. This property is inhabited by the applicant's mother and the family's financial involvement in the project would negate concerns regarding noise and nuisance (in the same manner as financial involvement negates amenity concern when dealing with wind turbine applications, for example).



Importantly, no consideration has been given to hours of operation or any other factor that would impact upon the assessment of noise or general disturbance. This is procedurally unfair. If an application is to be recommended for refusal, the least that can be expected is a comprehensive assessment of the proposal and its anticipated effects, and there has been no previous attempt to seek clarification on this point or this subject matter.

At least three of the refusal reasons relate to "need" for this facility, in the open countryside. This has the effect of creating an impression that the proposal is fundamentally unjustifiable under any circumstances. However, if the merits of the proposal are accepted, then each of these reasons will be set aside automatically.

We believe that the planning department has fundamentally misunderstood the nature and location of the applicant's farm business and insufficient weight has been given to the fact this is a farm diversification project, provided for by Policy CTY 11 of PPS 21. Also, the planning department mistakenly pointed out that the applicant's registered farm holding is located at Dundalk, "10 miles away". In actual fact, the farm holding straddles both sides of the border and the applicant's residence is a mere matter of minutes away from the site, while his northern-based farming operations are concentrated at an adjacent farm complex.

Even if the applicant's haulage interests were not recognised as occurring on this site, the fact that he is a haulier and a farmer, who consumes a large quantity of fuel on a monthly and annual basis, cannot be ignored. Even if the haulage business is presently registered to an address in County Louth, this does not mean that the applicant cannot be given an opportunity to diversify his farm business at this site, particularly in light of the fact that he is recognised as an active farmer in this jurisdiction by DAERA.

The planning department indicates that Roads Service requested further information. This was uploaded onto the planning portal on 28<sup>th</sup> April 2016. Roads Service was not re-consulted however. We submit this was indicative of a predetermined outcome i.e. the application was going to be refused irrespective of what Transport NI advised. This is significant, given that the application has been stagnant for 3.5 years, with no formal feedback provided to the applicant.

Within the planning report, comments have been made that the proposal would be better suited to an urban area and that the use is suburban in nature. There has been no demonstration of fact, in explaining why this proposal is not acceptable in this specific context, nor has there been an attempt to show how the storage and repairs of cars is acceptable but the storage of fuel within bulk containers is not.



The planning department's understanding of the level and intensity of the use is flawed, owing to its belief that retail activities will occur on the site. In reality, activity will amount to deliveries inwards and outwards. Home heating fuel will be stored on site, along with marked and un-marked diesel. Marked diesel would be distributed to local farmers, for use on their farms (this can only be obtained from licensed distributors, who typically operate in rural areas, since marked fuel is not legally permitted in road vehicles and therefore is seldom sold in urban areas).

The nature of the proposal is such that a delivery vehicle will typically leave the site in the morning before returning in the evening. It is unlikely there would be more than 1-2 deliveries per week. On occasion, a delivery driver might reasonably be expected to bring his / her delivery vehicle home, and in such circumstances there would be less activity on the site, and certainly less visible activity than has been suggested in the planning report.

In terms of farm diversification, the planning department mistakenly claims that this will be a separate entity from the farm business, and it claims they could operate independently of one another. In reality, this proposal could not be operated by an independent party. It is situated between the applicant's mother's house, and other buildings that are used for the storage and repair of vintage cars. This venture is run by the applicant's son, whom is employed on a full-time basis in the medical profession (as well as working on this farm). In reality, this enterprise will be a part-time undertaking, and it will boost farm income rather than assuming primacy. The fuel storage business could not operate viably on its own. For example, it can only take place owing to the existence of redundant farm building. If an independent commercial operator sought to take over, the cost of rent combined with the constrained space available (if sought as a full-time commercial entity) would be prohibitive. Clearly, this venture could only succeed if operated by this applicant, in the diversification of his farm business, contrary to the planning department's assessment, and the applicant is content to be bound by a restrictive condition or a legal agreement in order to satisfy the planning department.

Precedents have been cited and an oil depot approved at Ayalogue Road, which is actually more open than this site, was purportedly not relevant because of the small scale of that yard and because the use was "already established in the area". We believe that more information is needed to explain why that case is not relevant to this one. In particular, we noted the statement that the use was already established, however we have also read a Planning Appeals Commission decision which previously upheld an enforcement notice that was issued to order the cessation of an oil storage and distribution business on that site (2009/E057). Against that backdrop, we do not accept the Council's statement that the precedent is not relevant.



The planning department erroneously states this proposal will generate a “significant number of movements to and from the site, which is not appropriate to a rural area”. There has been no attempt to substantiate the claim that the number of movements will be significant. Critically, Form P1 was completed and it detailed the number of vehicular movements to be generated at the site. This confirmed a low level of usage, and no attempts were made to clarify whether or not the number of movements stated on the P1 form was incorrect, yet we now learn that the Council feels that the number of movements will be significant.

If it was accepted that the level of traffic is not as high as has been believed, it follows that the use will not be as inappropriate as has been claimed, while the purported impact upon neighbouring properties is likewise not as pronounced as has been claimed (which is accepted by Environmental Health).

In light of the matters of fact requiring clarification, the length of time this application has been under consideration and the lack of feedback provided to date, it is considered proper that this application should be deferred for an office meeting, and an opportunity provided to clarify all items of concern.

Yours faithfully,



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

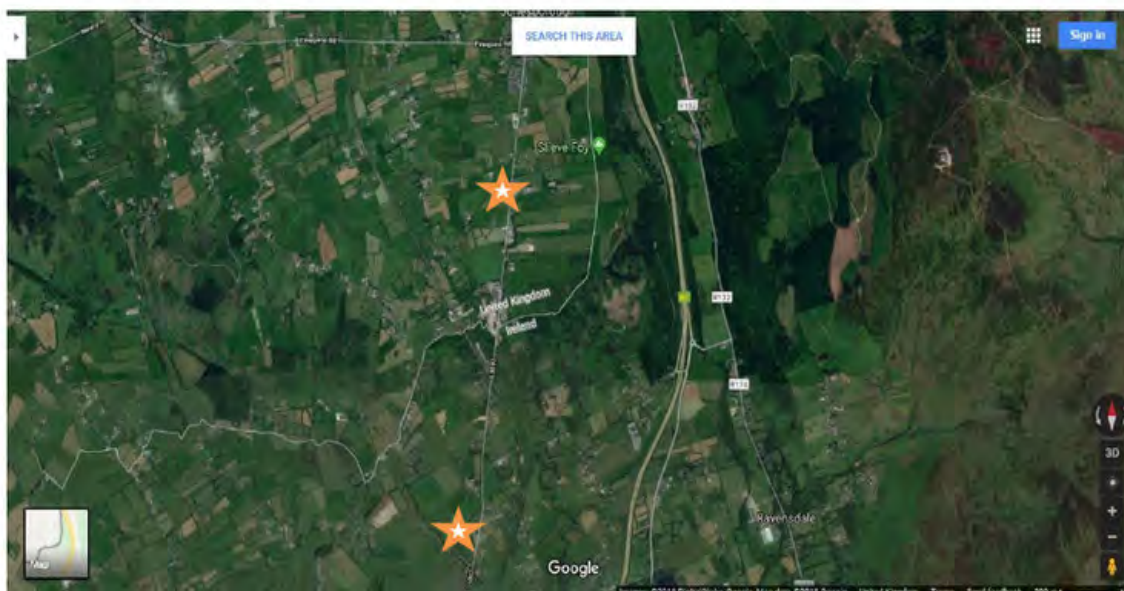


**RTPI**  
Chartered Town Planner





Picture of applicant's house, in Co. Louth. The upper part of his farm can just be noticed at the north eastern part of this image.



Map illustrating the location of the applicant's house relative to this farmstead.





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0753/F

**Date Received:** 03.05.18

**Proposal:** Proposed new 'Sure Start' nursery building, with additional 3 No. parking spaces provided by extension of existing car park.

**Location:** Lands immediately to the north of Bessbrook Community Centre within 'the pond field' park at No. 8 Mill Road, Bessbrook

**Site Characteristics & Area Characteristics:**

Site comprises of an existing community centre facility

**Site History:**

P/2013/0801/F - Extension to Community Centre to provide Boxing facilities for Sacred Heart Boxing Club with minor alterations to existing centre and provision of extended car park. Refused. (Issues relating to provision of information to satisfy requirements of FLD5 of PPS15)

P/1990/1099 - Erection of community centre. Granted

**Planning Policies & Material Considerations:**

**Banbridge/ Newry and Mourne Area Plan 2015** - Site is within the development limits of Bessbrook, Landscape Policy Area (BK14) and Conservation Area

**Area Plan:** Proposals adhere to the objectives of new development within the settlement limits. Consideration of development, policy provision and impact upon the designations of the Conservation Area and Local Landscape Area are considered in more detail below.

**PPS3: Access, Movement and Parking, DCAN 13: Crèches, Day Nurseries and Pre-School Play Groups (Access Arrangements) and DCAN 15: Vehicular Access Standards and Parking Standards:**

**AMP2 (Access to Public Road), DCAN13 and DCAN 15:** The current access arrangement is restricted in terms of width and ability to provide forward/rear sight visibility. Transport NI in their consultation response dated 25.06.18 have expressed concerns with regard to the current access arrangement which was rendered unacceptable for the intensification of the use and was not in accord with the standards of DCAN 15. The agent provided additional information on 15.11.18 which was reconsidered by Transport NI. However despite the effort to address concerns, DFI in their consultation response dated 14.12.18 were of the same opinion that proposals remain contrary to AMP2.

**AMP7 (Car Parking and Servicing Arrangements), AMP9 (Design of Car parking) and Parking Standards**

Proposals make provision for an additional 3 spaces in addition to existing, however based on the numbers of proposed staff and visitors a total of 6 additional spaces are required. However given the nature and use of the community centre, the existing car park can adequately accommodate proposals. Servicing and manoeuvring within the site can also be achieved without adverse impact.

**SPPS and PPS6, Planning, Archaeology and Built Heritage:**

**Policies BH1, BH2, BH3 and BH4:**

HED in comments dated 6<sup>th</sup> June 2018 advise that on the basis of information submitted they are content that proposals are satisfactory to the SPPS and PPS6.

**BH12 – New Development in a Conservation Area**

Development proposals are located within the designated Conservation Area of Bessbrook. The site is located immediately to the north of an existing red bricked community centre and situated adjacent and south of the existing pond, with limited views from the public road. The location of development is far removed from the picturesque setting of Fountain Street and Charlemont Square and given its position there is no direct adverse impact upon the setting of the Conservation Area.

The design and finishes are not necessarily that of conservation standard as found in buildings to the north of the pond. However, exception has been given due to the existing context, topography, setting, location and finishes of the existing community centre to which development is situated closest and visually reads. Development is far removed and set apart from the picturesque buildings and landscape to the north.

In this particular case proposals do not detract from the character, appearance or setting and is subordinate to the existing built form. The proposed building is shielded from views by the existing building and the embankment of Bessbrook Pond. Overall proposals fulfil the ethos of this policy.

**PPS6 (Paragraph's 2.23 and 2.24 - Landscape Policy Area) and Banbridge/Newry and Mourne Area Plan 2015, BK14: Local Landscape Policy Area:**

The local landscape policy area comprise of the mill pond and surrounds. The development proposal in this instance is located adjacent and south of the existing mill pond and to the north of existing community centre facilities. The proposed development is well screened from views due to natural topography as well as existing built form. Existing archaeological sites/ monuments as well as views are protected. Development is not dominant within the local landscape and nor will it detract from the visual appearance of the area.

**PPS15: Planning and Flood Risk**

**FLD 1: Development in Fluvial (River) and Coastal Flood Plains**

Proposals lie outside the 1 in 100 year flood plain although part of the site is located within a predicted flooded area relating to surface water flooding. Having checked Rivers Agency flood maps this area appears to be contained to the existing watercourse to the south of the site and a small portion of land to the southern gable of the existing community centre.

Surface water flooding does not appear to directly impact upon the actual position of the nursery facility. As development is not within an actual flood plain the exceptions test do not have to be enacted.

**FLD2: Protection of Flood Defence and Drainage Infrastructure and FLD4: Artificial Modification of Watercourses** - These provisions of policy are not applicable to the proposed scheme.

**FLD3: Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains**

The level of hard standing/ buildings proposed at the site are below the threshold of FLD3 and therefore a drainage assessment is not required.

**FLD5: Development in Proximity to Reservoirs**

The development is situated within the inundation path of Bessbrook Pond as well as Camlough Lake. The agent has been in direct contact with both the Council and Rivers Agency (see email correspondence 03.10.8) with Rivers Agency confirming that information provided to them appears logical. Rivers Agency appear content to apply planning conditions to address the issues of FLD5.

**SPPS, PSRNI (DES2), DCAN 11: Access for All and DCAN 13: Crèches, Day Nurseries and Pre-School Play Groups**

Proposals are compatible with the existing land use and has been adequately designed for those whose mobility is impaired. The external finishes are not of conservation standards to those found at Charlemont

Square and Fountain Street. Notwithstanding this the application site is far removed from these areas but the portion of the building sandwiched between the existing community centre and embankment set this particular site apart and will not adversely impact upon the setting of the conservation or landscape policy areas.

Environmental Health have expressed concerns upon amenity regarding use of the building and external areas after the nursery is closed resulting in loss of amenity to local residents due to noise disturbance. Consideration has been given to the impact to amenity however the use of planning conditions to restrict hours/ days of opening could be utilised to overcome this issue.

### **Consultations:**

**Transport NI (14.12.18 and 25.06.18)** - Having considered additional information submitted 15.11.18 Roads have nothing further to add to comments dated 25.06.18. Comments dated 25.06.18 advise proposals are contrary to PPS3, AMP2 in that it would if permitted prejudice the safety and convenience of road users since the width and forward/ rear sight visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with standards contained in DCAN 15.

**Fisheries (22.06.18)** - No issues

**Rivers (19.06.18)** - FLD 1 Development in Fluvial Flood Plain: Proposals lie outside 1 in 100 year fluvial flood plain but minor part of the site is located within a predicted flood area as indicated in the Surface Water Flood Map.

FLD2 and FLD4 - Not applicable

FLD3 - Drainage assessment required for all development proposals that exceed relevant thresholds

FLD5 Development in proximity to reservoirs: Development shown within inundation path of Bessbrook Pond and Camlough impoundment. Applicant to demonstrate condition, management and maintenance.

**Environmental Health (04.06.18)** - Concerns regarding the use of the building and the external amphitheatre after the nursery is closed for community events and gatherings such as summer screenings and weekend events. The proposal is close to residential properties. Outdoor events have the potential to result in loss of amenity to local residents by reason of noise disturbance.

**NIW (13.06.18)** - Generic response

**HED (06.06.18)** - Content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements

**Objections & Representations**

One neighbour notified  
No objections received  
Advertised May 2018

**Consideration and Assessment:**

Overall the Planning Authority have no objection in principle to development proposals. These have been fully considered in line with planning policy, guidance as well as consultee advice. An opinion to refuse this application has been formed following the outcome of advice from Transport NI on two occasions (the second following receipt of additional information) which has resulted in an unchanged opinion to refuse on road safety grounds.

**Recommendation:** Refusal

**Refusal Reasons:**

The proposed is contrary to Planning Policy Statement 3: Access, Movement and Parking (PPS3) Policy AMP2, in that it would if permitted prejudice the safety and convenience of road users, since the width and forward/rear sight visibility of the existing access render's it unacceptable for intensification of use and is not in accordance with the standards contained in Development Control Advice Note 15: Vehicular Access Standards.

**Case Officer**

**Authorised Officer**



Comhairle Ceantair  
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**Newry, Mourne  
 and Down**  
 District Council

**Application Reference: LA07/2018/1003/F**

**Date Received: June 22<sup>nd</sup> 2018**

**Proposal: Proposed change of house type at plot Nos 37, 41-43, 50, 51, 64-66, 71, 76, 77, 82, 91-94, 163, 170, 174-177, 180, 181, 186, 193, 194, 195, 196 and 208 (31 No. total) from these previously approved under LA07/2016/0617/F**

**Location:** *Lands under construction at Hillcrest Village McKnight's Hill to the North of Church of the Good Shepherd to the rear of Derramore Crescent and to the West of Brooklawns and Millvale Park Bessbrook Newry*

**Site Characteristics & Area Characteristics:**

The site consists of 31 house plots that are part of the Hillcrest Village residential scheme that is currently under development. They are located within the second and third phases of the development





### Site History:

The site has an extensive history, the most recent approval is listed above, there have been several associated discharge of condition and change of house type applications since its approval.

### Planning Policies & Material Considerations:

Planning Policy Statement 7 Quality Residential Environments

The principle of the development has been long established, the current application seeks to provide sunroom extensions on to the rear of 31 dwellings that are to be constructed on plots within the second and third phases.

The sunrooms will be small in size and will have no bearing on the residential environment of the scheme or impact on residential amenity through overlooking etc.

### Objections & Representations

To date a total of 7 letters of objection have been received in relation to this application. Issues of concern relate to the impact that the development of Hillcrest Village could have on sites of archaeological interest within the site boundary.

### Conclusions and Recommendation:

The proposal seeks to carry out a series of minor changes to approved plots within the development, no changes to the layout of the development or to the access road are proposed. The installation of the additional windows will not have any implications for residential amenity.

In relation to the concerns raised about the archaeology of the site, the most recent approval for Hillcrest Village contained 3 conditions (Nos 17, 18 and 19) relating to archaeology, condition 17 required the developer to submit and agree with the Council a programme of archaeological work. This condition was discharged by application LA07/2018/1925/DC on January 4<sup>th</sup> 2019 following consultation with Historic Environments Division. Successful implementation of the programme of

work will ensure that the development is carried out in a way that respects the archaeological remains and ensures their preservation. This will be ensured by the Council and HED. Furthermore, condition 18 regarding the protective fence to prevent damage to archaeological remains was discharged under LA07/2018/1928/DC on 4th January 2019 and compliance with condition 19 shall ensure access is afforded to a nominated archaeologist and ensure monitoring and the programmed works are completed satisfactorily. The works needed to erect the sunrooms will be required to comply with the archaeological programme of works and their successful implementation will have no adverse impacts on the archaeology of the site.

Therefore as the changes to the house types are acceptable approval is recommended.

**Conditions:**

1. As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2. The permission hereby granted relates solely to the change of house types on sites outlined in red and as shown on the site layout drawing and shall adhere to the conditions as previously approved under planning reference LA07/2016/0617/F

Reason: To ensure that all other conditions of the previous approval are adhered to.

3. Street layout to be in accordance with approval issued under LA07/2016/0617/F.

Reason: In the interests of road safety.

**Case Officer**

**Authorised Officer**





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**Newry, Mourne  
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District Council

**Application Reference: LA07/2018/1103/F**

**Date Received: July 19<sup>th</sup> 2018**

**Proposal: Erection of 11 dwellings (Proposed change of house types (T&S) at plot Nos. 197-207 from those previously approved under ref. LA07/2016/0617/F.**

**Location:** *Plot Nos 197-207 at hillcrest Village McKnights Hill to the north of Church of the Good Shepherd to the rear of Derramore Crescent and to the west of Brooklawns and Millvale Park*

**Site Characteristics & Area Characteristics:**

The site consists of 11 contiguous house plots that are part of the Hillcrest Village residential scheme that is currently under development. They are located on the eastern side of the scheme above the flood plain of the Bessbrook River which lies to the east of the site.

**Site History:**

The site has an extensive history, the most recent approval is listed above, there have been several associated discharge of condition and change of house type applications since its approval.

**Planning Policies & Material Considerations:**

Planning Policy Statement 7 Quality Residential Environments

The principle of the development has been long established, the current application seeks to carry out a number of changes to the identified sites. These include the relocation of staircases and the installation of minor, flank windows, as well as changes in window fenestration and of materials.

The changes are minor in nature and will have no bearing on the residential environment of the scheme or impact on residential amenity through overlooking etc.

**Objections & Representations**

To date a total of 7 letters of objection have been received in relation to this application. Issues of concern relate to the impact that the development of Hillcrest Village could have on sites of archaeological interest within the site boundary.

**Conclusions and Recommendation:**

In relation to the concerns raised about the archaeology of the site, the most recent approval for Hillcrest Village contained 3 conditions (Nos 17, 18 and 19) relating to archaeology, condition 17 required the developer to submit and agree with the Council a programme of archaeological work. This condition was discharged by application LA07/2018/1925/DC on January 4<sup>th</sup> 2019 following consultation with Historic Environments Division. Successful implementation of the programme of work will ensure that the development is carried out in a way that respects the archaeological remains and ensures their preservation. This will be ensured by the Council and HED. Furthermore, condition 18 regarding the protective fence to prevent damage to archaeological remains was discharged under LA07/2018/1928/DC on 4th January 2019 and compliance with condition 19 shall ensure access is afforded to a nominated archaeologist and ensure monitoring and the programmed works are completed satisfactorily. The works needed to erect the sunrooms will be required to comply with the archaeological programme of works and their successful implementation will have no adverse impacts on the archaeology of the site.

Therefore as the changes to the house types are acceptable approval is recommended.

**Conditions:**

1. As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2. The permission hereby granted relates solely to the change of house types on sites outlined in red and as shown on the site layout drawing and shall adhere to the conditions as previously approved under planning reference LA07/2016/0617/F

Reason: To ensure that all other conditions of the previous approval are adhered to.

3. Street layout to be in accordance with approval issued under LA07/2016/0617/F.

Reason: In the interests of road safety.

4. The development hereby approved shall not commence until the full details of any retaining walls/structures proposed within the site have been submitted to and approved in writing by the Planning Authority. The retaining walls/structures shall be constructed prior to the occupation of any part of the development hereby approved.

Reason: In the interests of safety and visual amenity.

**Case Officer**

**Authorised Officer**



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**Newry, Mourne  
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District Council

**Application Reference:** LA07/2018/1388/F

**Date Received:** 22.08.18

**Proposal:** Extraction of glacial aggregate

**Location:** Lands approximately 264m due North East of No. 88 Longfield Road, Forkhill

**Site Characteristics & Area Characteristics:**

Site is located within the confines of Slieve Gullion east of an existing roadway amongst a forest covered mountainside.

**Site History:**

No relevant planning history

**Planning Policies & Material Considerations:**

**Banbridge/ Newry and Mourne Area Plan 2015:** Site is in the AONB, Special Countryside Policy Area, Special Area of Conservation and Sites of Local Nature Conservation Importance (SCLNI)

**Policy CVN1 (SLNCI)** - Proposals do not have an adverse impact upon nature conservation interests and NIEA have raised no concerns in their response.

**Policy COU1 Special Countryside Policy Areas** - Proposals do not threaten the character of the area and due to the nature of such proposals will not adversely impact on natural heritage interests. Whilst initially proposals will leave some level of scarring on the landscape this will be short-lived and as can be seen from the previous area of extraction, if left to nature this area will become covered by wild vegetative growth which will integrate and reduce the visual impact of this area of extraction.

**SPPS, PPS2 and PPS21**

Proposals involve the extraction of materials immediately adjacent to a previous site of excavation with materials to be utilised in sustainable manner and directed into the formation of a pathway within Slieve Gullion to protect the landscape from erosion (See related application LA07/2018/1299/F). Despite proposals lying within a sensitive location the area of extraction is minimal and adjacent to a former area of extraction which through time has been covered by the wild growth of natural vegetation that it now appears as part of the natural terrain and does not detract from the appearance of the area.

**Consultations:**

NIEA (09.11.18) - No concerns

Transport NI (05.10.18) - No objection

Geological Survey (25.09.18) – Content

Forestry (19.10.18) - No objection

SES 14.01.19 - No objection

**Objections & Representations**

1 neighbour notified

Advertised September 2018

No objections received

**Consideration and Assessment:**

Proposals are acceptable for the reasons set out above and on this basis it is recommended to approve the application.

**Recommendation:**

Approval

**Conditions:**

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

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

*Case Officer*

*Authorised Officer*



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**Newry, Mourne  
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District Council

**Application Reference:** LA07/2018/1299/F

**Date Received:** 17.08.18

**Proposal:** Upgrade of existing pathway from the South Cairn to Calliagh Berra's Lough, Slieve Gullion, including remedial landscaping and all associated works.

**Location:** Pathway located between Calliagh Berra's Lough and South Cairn, Slieve Gullion Mountain, Slieve Gullion Forest Park, 89 Drumintee Road, Meigh

**Site Characteristics & Area Characteristics:**

Site is located within the confines of Slieve Gullion east of an existing roadway extending along the western face of the mountainside.

**Site History:**

No related planning history

**Planning Policies & Material Considerations:**

**Banbridge/ Newry and Mourne Area Plan 2015:** Site is in the AONB, Special Countryside Policy Area, Special Area of Conservation and Sites of Local Nature Conservation Importance (SCLNI) and Archaeological Monument

**Policy CVN1 (SLNCI)** - Proposals do not have an adverse impact upon nature conservation interests and NIEA have raised no concerns in their response.

**Policy COU1 Special Countryside Policy Areas** - Proposals do not threaten the character of the area and due to the nature of such proposals represent a consolidation of existing development which will not adversely impact on natural heritage interests. Whilst initially proposals will leave some level of scarring on the landscape this will be short-lived and once boulders are embedded these will integrate into the landscape and assist with the prevention of soil erosion on the landscape.

## **SPPS, PPS2 and PPS21**

Proposals involve the extraction of materials elsewhere (See application LA07/2018/1388/F) and brought to the site to form a pathway within Slieve Gullion to protect the landscape from erosion. Despite proposals lying within a sensitive location, consultees have raised no major concerns. The path over time will appear as part of the natural terrain and will not detract from the appearance of the area.

### **Consultations:**

HED (25.01.19) - Content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6.

NIEA (07.11.18) - NED has no concerns.

### **Objections & Representations**

Due to the possibility of unregistered land owners the application was advertised in the local press - No objections or comments have been received by the council in relation to the advertisement.

No neighbours notified

No objections

Advertised September 2018

### **Consideration and Assessment:**

Proposals are acceptable for the reasons set out above and on this basis it is recommended to approve the application.

**Recommendation:** Approval

### **Conditions:**

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

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

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

excavation recording or by preservation of remains, and for preparation of an archaeological report.

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

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

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

4. A suitable buffer of at least 10m must be maintained between the location of refuelling, storage of oil/fuel, storage of machinery/material/spoil etc and Slieve Gullion SAC/ASSI.

Reason: In the interests of natural heritage

Case Officer

Authorised Officer





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**Newry, Mourne  
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District Council

**Application Reference:** LA07/2017/1895/F.

**Date Received:** 6 December 2017

**Proposal:** Detached Dwelling House in compliance with PPS 21 – CTY 6.

**Location:** 55 ms south east of Molly Road, Jonesborough.

### **Addendum to Case Officer Report**

- 1.0.** This application was brought to the Planning Committee on Wednesday 7 March 2018 with an opinion to refuse on the grounds that it was contrary to the SPPS and CTY 1 (no overriding evidence why this development is essential in this rural location), SPPS and CTY 6 (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 was refused and it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case); SPPS and CTY 13 of PPS 21( no suitable degree of enclosure to integrate building into the landscape and building relies on new landscaping), SPPS and CTY 14 of PPS 21 (suburban building up when viewed with existing and approved dwellings), SPPS and Policy NH 6 of PPS 2 (unsympathetic siting within the AONB).
- 2.0.** The proposal was deferred at the Planning Committee meeting for one month to allow agent/applicant to submit written evidence from relevant professionals

to support and document the issues presented verbally to Committee. It was also agreed that, if approved, the decision to be issued under delegated authority or brought back to Committee if it continues as a refusal.

- 3.0.** Following the Committee Meeting the applicant submitted further written information received on 9 April 2018, consisting of correspondence previously received (and considered) plus additional correspondence from medical and care providers in support of the application.
- 4.0.** The Planning Department has fully assessed the information submitted in support of the application. It considers that insufficient information has been received to demonstrate that the application complies with the requirements of CTY 6 of PPS 21. It requested additional information on a number of occasions, (including at a meeting with the agent on 21 May 2018 and in a subsequent letter to the agent dated 19 September 2018), to support the need for the dwelling at this specific location in the context of CTY 6 of PPS 21. In particular it sought additional information or evidence to demonstrate the compelling and site specific reasons for a new dwelling at this location related to the applicant's personal or domestic circumstances; details of any formal arrangements regarding David's long term care at this address, including any support packages from local or Newry & Mourne based agencies; details of David's specific accommodation requirements and how these have been incorporated into the design of the dwelling; and details of David's current accommodation in Dundalk.

#### **Planning Assessment.**

- 5.0.** The basis for the application is that a house is required at this location by applicant, Brian Gallagher to provide care for his brother, David Gallagher.
- 5.1.** Policy CTY 6 of PPS 21 states that permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling and site specific reasons for this related to the applicant's personal or domestic circumstances and where stated criteria are met: i.e. the applicant can provide satisfactory 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 there are no alternative solutions to meet the particular circumstances of the case, such as an extension to the existing dwelling or conversion or re-use of another building within the curtilage of the property or a temporary mobile home for a limited period to deal with immediate short term circumstances.

- 5.2.** The Planning Department has fully considered all of the information submitted in support of this application. It remains of the opinion that it has not been demonstrated that a new dwelling, at this specific location, is an appropriate response, in planning policy terms, to the issues raised or that genuine hardship would be caused if planning permission were refused.
- 5.3.** In particular it is considered that the site specific reasons advanced in support of the application are insufficient to meet the strict policy requirements. The fact that the applicant owns the land or the other locational reasons advanced in support of the application are insufficient grounds to set aside the strict planning policy requirements set out in CTY 6.
- 5.4.** It is also considered that insufficient information has been provided on the long term needs of the applicant and how these will be met at this particular location in Newry, Mourne and Down. No evidence has been provided on future care arrangements between the application site and any future care facility.
- 5.5.** It has not been adequately demonstrated that potential alternative solutions have been fully explored, e.g. an existing appropriately designed dwelling within the nearby village setting or an extension to the existing dwelling.
- 5.6.** It is considered, having assessed the totality of the information, that the personal circumstances advanced in support of this application do not give rise to a site specific need which can only be met through the construction of an additional dwelling at this location.
- 5.7.** The application site also remains unacceptable for the reasons stated above.

**Recommendation.**

**6.0. Refusal.** The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), Policies CTY1, CTY6, CTY 13, CTY 14 of PPS 21 and Policy NH 6 of PPS 2.

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



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**Newry, Mourne  
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District Council

**Application Reference:** LA07/2017/1895/F

**Date Received:** 06.12.2017

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

**Location:** Approximately 55 metres South East of No. 6 Molly Road Lower, Jonesborough, Newry

**Site Characteristics & Area Characteristics:**

The site includes the northern section of a larger agricultural field situated alongside the public road. The land falls to the East in what is an otherwise rural area located in the Ring of Gullion AONB outside the village of Jonesborough.

**Site History:**

P/2014/0998/F

Lands 55m South-East of No.6 Molly Road Lower, Jonesborough, Co Armagh

Erection of farm dwelling and garage

Permission Refused: 23.12.2015

**Planning Policies & Material Considerations:**

Banbridge, Newry and Mourne Area Plan 2015.

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21

Planning Policy Statement 2

Planning Policy Statement 3 / DCAN 15

**Consultations:**

Transport NI – No objections.

NI Water – No objections / standing advice

**Objections & Representations**

4 neighbours notified on 05.01.2018  
Application advertised on 10.01.2018  
No objections received.

Letter of support from Dr. Hany El Naggar – Consultant Neurologist.

Letter of support from John Paul Peters – Social worker.

**Consideration and Assessment:**

The proposal lies within the Rural Area / AONB as depicted in the Area Plan. Whilst there are no specific objections from the Area Plan – determining weight will be afforded to the relevant planning policies as stated below.

**PPS21 Sustainable Development in the Countryside.**

As the proposed dwelling is to be sited outside the development limit in the rural area PPS21 is applicable. Policy CTY1 makes provision for a new dwelling in the countryside where the proposal meets one of the exceptions listed. The agent confirmed he wished the application to be assessed against policy CTY 6 in line with the supporting statement.

With regard to policy CTY 6 medical evidence has been submitted confirming the condition of the applicant. The consultant supports the application which seeks to provide single storey accommodation for David (applicant) to allow his brother to look after him (other applicant Brian). It will also accommodate respite care for the applicants' elderly parents.

Whilst the agent has said Brian's existing dwelling/curtilage cannot accommodate David, this has not been clearly demonstrated in any detail. There are no compelling or site specific reasons why a new dwelling at this rural location is absolutely necessary or why an existing single storey dwelling solution cannot be considered. It also has not been demonstrated that genuine hardship would be caused if permission was refused.

As a result of the above the proposal is considered contrary to CTY 6 (a) and (b).

As a consequence of the above considerations the proposal does not meet any of the exceptions listed under CTY 1 for a new dwelling in the countryside and with no overriding reasons why this development is essential and cannot be located in a settlement, the proposal is contrary to policy CTY 1.

In terms of CTY13 the proposal will be critically viewed from the Molly Lower Road in both directions. The site is unable to provide a suitable degree of enclosure and relies primarily on the use of new landscaping to enable the dwelling to integrate into the landscape. In terms of CTY14 the proposal will further erode the rural character of the area due to the suburban style build-up of development when viewed with the surrounding existing buildings. The proposal will be critically viewed in terms of build up from Molly Road Lower and Finnegan's Road. As a result, the proposal is contrary to CTY13 (parts b and c) and CTY14 (part b).

In terms of CTY 16 any approval notice would carry a negative condition for consent to discharge to be agreed in writing by the Council, prior to commencement to development.

#### Planning Policy Statement 3 / DCAN 15

Transport NI was consulted with regard to this policy criteria and have no objections to the proposal.

#### Planning Policy Statement 2

Policy NH6 is applicable due to the location in the Ring of Gullion AONB. The siting (for the reasons noted above) is considered unsympathetic to the special character of the AONB and therefore fails this policy criterion.

#### **Recommendation:**

Refusal

#### **Reasons for Refusal:**

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

2. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy 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.

3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site 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.

4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to the rural character of the countryside.

5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy NH6 of Planning Policy Statement 2, Natural

Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

**Case Officer:**

**Authorised Officer:**



**TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS**

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<b>PLANNING MEETING – 09 MAY 2018</b>			
LA07/2017/1326/F	Peter Morgan – dwelling and garage on a farm – 30m south of 28 Bog Road, Kilcoo	<b>Agreed at August 2018 meeting to defer planning application for further discussion between agent/applicant and Senior Planning Officers on new information submitted</b>	Annette McAlarney	<b>Application considered at August 2018 meeting – agreed to defer application for further discussion between agent/applicant and Senior Planning Officers on new information submitted. Contact to be made with agent.</b>	N
P/2014/0427/0	Joseph McGivern – site for dwelling to the rear and south of 2 Berkley Grove, Warrenpoint	<b>Remove from the agenda to allow for further discussion with Planning Officers</b>	Jacqui McParland	<b>Agent has submitted additional information to address roads issues Sept 2018 Reconsult TNI. – application listed on schedule for Planning meeting on 13-2-2019</b>	N
LA07/2017/1624/0	Thomas Stevenson –	<b>Defer Planning Application</b>	Jacqui	<b>Agent has submitted</b>	Y

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	replacement dwelling -50m NW of 18 Turlough's Hill, Annalong	<b>LA07/2017/1624/O to allow time for the agent to provide more documentary evidence regarding issues raised by Committee Members including the need for a health and safety report on access through the farmyard and also the case of need for the applicant to be living close to the farm.</b>	McParland	<b>a H&amp;S Report. No additional case for need submitted. Dept has requested this again – 11<sup>th</sup> June 2018. This is still not forthcoming. I have instructed case officer to write up based on information available and bring back as refusal.</b>	
LA07/2017/1721/F	Millvale Services Ltd – proposed parking for neighbouring Millvale Service Station – Millvale Road, Bessbrook	<b>Defer Planning Application LA07/2017/1721/F to allow for a Health and Safety Report / Road Traffic Report to be conducted as soon as possible and report back to Committee for further consideration of the application.</b>	Pat Rooney	<b>21 day letter issued to agent requesting the said information. Expiry date for info is 9.7.18.</b>  <b>Application deferred at meeting on 29 August 2018 until issues raised by SPO have been considered and Planning Officers are to liaise with the</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				agent/applicant at the earliest possible opportunity	
<b>PLANNING MEETING – 6 JUNE 2018</b>					
LA07/2017/1030/0	Michael Tinnelly - site for 100 bedroom hotel and spa - 200m east of No. 25 Greenpark Road, Rostrevor.	<b>Defer application so that the agent/applicant/Planning Consultant can meet with the SPTO to identify what outstanding information has to be submitted to allow Planners and HED to make an informed assessment and opinion on the application. As it is a major application it be brought back to the Committee in due course</b>	Jacqui McParland	<b>Held meeting on the 14<sup>th</sup> June with agent. Discussed what was required. Allowing 28 days for submission. Information submitted mid-August. Currently out for consultation with HED. Site Meeting with Agent and HED taking Place 31<sup>st</sup> Oct 2018. On schedule for Planning Meeting on 13-02-2019</b>	Y
LA07/2018/0398/0	Shea McAnulty - proposed infill gap site for a new dwelling and detached garage - lands between No. 5 and 5a Cons Lane, Newry	<b>Application removed from the schedule for further consideration by Planners</b>	Andrew Davidson	<b>Application deferred at PI. Meeting on 29-08-2018 to allow for further discussions between applicant/agent and</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				<p>planning officers re: potential for other in-fill or agricultural opportunities. Awaiting information from the agent in terms of sites owned by the applicant so that the Planning Department can assess the potential for any planning approvals on these sites.</p>	
<b>PLANNING MEETING – 1 AUGUST 2018</b>					
LA07/2017/1261/0	Thomas Mageean – proposed dwelling and garage – site abutting 20 Junction Road, Saintfield	<p><b>Defer application to enable the Council’s Legal Advisor to consider issues raised regarding ownership of the application site (Mr Thomas Mageean); the farm business in the name of Mr Bernard Mageean, who takes land in conacre from his brother and this farm business being altered by adding the applicant as an additional member of the business and in so doing have the applicants buildings at No. 20</b></p>	Annette McAlarney	<b>Await legal advice.</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<b>Junction Road included within the farm business criterion © of CTY10</b>			
LA07/2017/1494/0	John Murnion –proposed one and a half storey dwelling and detached domestic garage – opposite and north of No. 43 Bryansford Road, Stang, Hilltown	<b>Defer application for further discussion between agent/applicant and planning officers in relation to concerns expressed that land at 72 Kilkeel Road, Hilltown, which is the main farm holding, can only be accessed by an existing laneway of which the applicant only has right of way and could not therefore provide sight lines which may be required. Clarification to be sought on this to determine if a site could be achieved at this address and also discussions on the proposed off-site location.</b>	Annette McAlarney	<b>Agent has submitted supporting info which has to be considered. Further discussion required with enforcement regarding approvals on the lane.</b>	N
		<b>PLANNING MEETING – 29 AUGUST 2018</b>			
LA07/2017/0821/0	Mr C Kane - Proposed off site replacement dwelling and garage - 123 Magherahamlet Road, Moneywabane, Ballynahinch.	<b>Defer application for further discussion between agent/applicant and planning officers re: new information submitted and issues raised at the Planning Committee Meeting</b>	Annette McAlarney	<b>Issues raised at Planning Committee referred to the outcome of an application which has yet to be</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				submitted to planning. In line with Committee wishes we have to await the submission of this application and its conclusion before returning to consider the current deferred application.	
		<b>PLANNING MEETING – 24 OCTOBER 2018</b>			
LA07/2018/0894/F	Dundrum Cross Community Playgroup - retrospective application for Dundrum Cross Community Play Group Facility (temporary permission) (amended description) - Dundrum Methodist Church 7-9 Manse Road, Dundrum.	<b>Removed from the addendum list at the request of Councillor Murnin to allow objectors to make representations</b>	Annette McAlarney	<b>Requires further consideration on foot of additional information submitted prior to Oct 2018 Committee</b>	N
LA07/2017/1671/F	Mr and Mrs McConnell - farm dwelling - 50m east of No. 77 Ballynahinch Road, Saintfield.	<b>Defer for 6 months to allow for the completion of an agricultural building on site and delegate authority to Planning Officers to issue the decision</b>	Annette McAlarney	<b>Review April 2019 re construction of shed.</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2018/0758/0	Mr and Mrs Hickland - new dwelling and garage - lands approximately 50M south of 56 Crawfordstown Road, Drumaness	<b>Defer for a site visit</b>	Annette McAlarney	<b>Held on 09-01-2019</b>	N
LA07/2017/1694/R M	Mr R Hutton - replacement dwelling (off site) - adjacent to junction of Vianstown Road and Bishopsbrae Road, Downpatrick.	<b>Defer to allow the opportunity for the agent/applicant to avail of one more office meeting with Planners and submit one additional set of amended plans for a dwelling in line with what was originally on site. Delegate authority to Planning Officers to issue the decision</b>	Annette McAlarney	<b>Set up meeting with Agent. Meeting date agreed 29/11/2018.</b>	N
LA07/2018/0537/0	James Donaldson and Roberta Heaney – proposed site for infill dwelling and domestic garage – Ballinran Road, Killeel	<b>Removed from the addendum list at the request of Councillor Macauley for full presentation at the next Committee meeting</b>	Jacqui McParland	<b>November 2018 Committee – defer for 3 months to allow the CLUD to be dealt with and delegate authority to officers to issue the decision irrespective of the outcome of the CLUD application</b>	Y
LA07/2018/0661/0	Eileen and Dermot O'Hare - erection of dwelling and domestic garage - between	<b>Defer for a site visit</b>	Jacqui McParland	<b>Held on 09-01-2019 – on schedule for February Mtg 13-02-</b>	Y

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	17a and 17b Hilltown Road, Mayobridge.			<b>2019</b>	
		<b>PLANNING MEETING – 21 NOVEMBER 2018</b>			
LA07/2018/0250/F	Mr G Morgan – dwelling and garage on a farm – lands 50m south of 30 Fofanny School Road, Newry	<b>Defer for a site visit</b>	A McAlarney	<b>Held on 09-01-2019 – on schedule for February Mtg 13-02-2019</b>	Y
		<b>PLANNING MEETING – 19 DECEMBER 2018</b>			
LA07/2018/0377/0	Replacement dwelling and garage – 20m east of 53 Beechview Road,	<b>Defer to allow for the submission of a CLUD on the building</b>	A McAlarney		
		<b>PLANNING MEETING – 16 JANUARY 2019</b>			
LA07/2017/1603/0	Housing development comprising of 6 no. semi-detached dwellings to complete the Old Railway Close development - lands to the west of 34 and 61 Old Railway Close, Leitrim.	<b>Defer to allow time for more information to be submitted in terms of the potential for any zoned land within the settlement to be developed.</b>  <b>Application to be taken back to Committee</b>	A McAlarney		
LA07/2018/0444/F	Proposed replacement dwelling and erection of detached garage - 5 Creevytenant Road,	<b>Defer to allow the agent and Planners to agree on an acceptable curtilage and design.</b>	A McAlarney		



Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	Ballynahinch.	<b>Officers be delegated authority to impose any relevant conditions and issue the decision</b>			
LA07/2018/1193/0	Off-site replacement dwelling with detached garage - approx. 215m SW of 15 Ardglass Road, Backaderry, Castlewellan.	<b>Defer for a site visit to look at the site in more detail including the original access</b>	A McAlarney	<b>Proposed date for site visit – 08-02-2019</b>	
LA07/2017/1469/F	Change of house type to that approved under LA07/2016/1448/F (for replacement single storey dwelling, refurbished outbuilding for storage purposes and detached carport for 2 cars), replacement outbuilding and detached carport for 2 cars (amended plans) - 186 Killowen Road, Rostrevor.	<b>Defer for a site visit so that Members could assess the site in more detail and its impact on neighbouring properties</b>	J McParland	<b>Proposed date for site visit – 08-02-2019</b>	

## Newry, Mourne & Down District Council – January 2019

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### 1. Live Applications

MONTH 2017/18	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April	129	914	222
May	141	916	217
June	141	909	225
July	150	960	231
August	114	913	244
September	141	958	263
October	168	971	272
November	187	1,002	276
December	133	1,085	297
January	164	1,063	273

## Newry, Mourne & Down District Council – January 2019

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

Month 2017/18	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April	510	182	79	33	110	<b>914</b>
May	506	193	78	33	106	<b>916</b>
June	483	201	84	33	108	<b>909</b>
July	540	189	90	34	107	<b>960</b>
August	482	187	99	34	111	<b>913</b>
September	511	184	108	45	110	<b>958</b>
October	529	170	114	46	112	<b>971</b>
November	548	178	110	52	114	<b>1,002</b>
December	604	184	115	64	118	<b>1,085</b>
January	607	183	90	62	121	<b>1,063</b>

### 3. Live applications per Case Officer

Month 2018/19	Average number of Applications per Case Officer
April	51
May	49
June	48
July	51
August	48
September	56
October	61
November	62
December	64
January	62

## Newry, Mourne & Down District Council – January 2019

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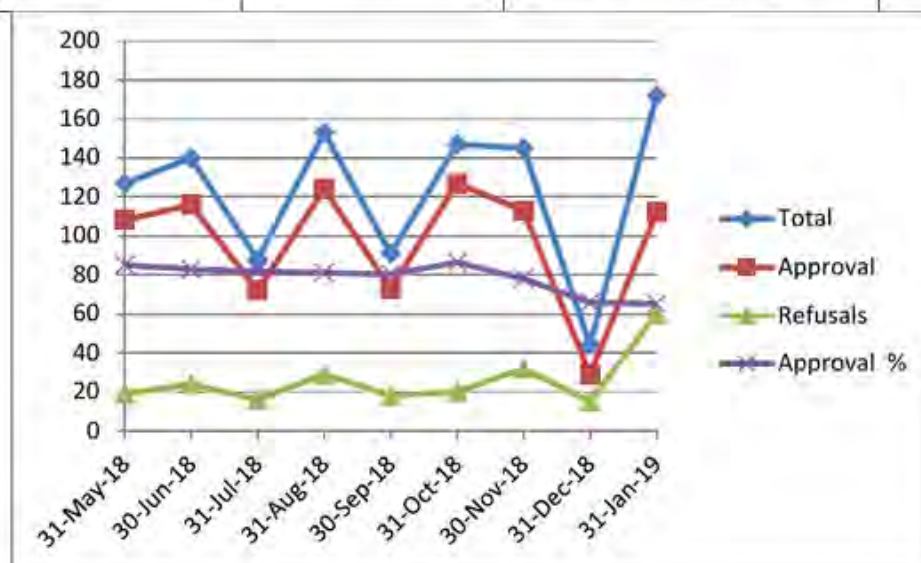
### 4. Decisions issued per month

Month 2018/19	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	130	111
May	127	119
June	140	130
July	88	78
August	153	141
September	91	83
October	147	141
November	145	138
December	44	40
January	172	156

## Newry, Mourne & Down District Council – January 2019

### 5. Decisions Issued YTD

Month 2018/19	Number of Decisions Issued	Breakdown of Decisions	
		Approvals	Refusals
April	130	Approvals (103)	79%
		Refusals (27)	21%
May	257	Approvals (211)	82%
		Refusals (46)	18%
June	397	Approvals (327)	82%
		Refusals (70)	18%
July	485	Approvals (399)	82%
		Refusals (86)	18%
August	638	Approvals (523)	82%
		Refusals (115)	18%
September	729	Approvals (596)	82%
		Refusals (133)	18%
October	876	Approvals (723)	83%
		Refusals (153)	17%
November	1,021	Approvals (836)	82%
		Refusals (185)	18%
December	1,065	Approvals (865)	81%
		Refusals (200)	19%
January	1,234	Approvals (977)	79%
		Refusals (260)	21%



## Newry, Mourne & Down District Council – January 2019

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### 6. Enforcement Live cases

Month 2018/19	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+yrs	Total
April	305	220	101	77	84	124	<b>911</b>
May	325	208	105	81	84	125	<b>928</b>
June	331	224	106	82	82	130	<b>955</b>
July	332	226	113	82	82	135	<b>970</b>
August	365	246	110	85	73	150	<b>1,029</b>
September	373	250	125	81	76	156	<b>1,061</b>
October	389	239	142	77	80	160	<b>1,087</b>
November	393	232	155	83	71	169	<b>1,103</b>
December	383	220	165	77	74	174	<b>1,093</b>
January	388	217	166	82	72	181	<b>1,106</b>

### 7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting
11 April 2018	25	20	5
9 May 2018	17	10	7
6 June 2018	13	5	8
4 July 2018	14	6	8
1 August 2018	12	8	4
29 August 2018	13	4	9
26 September 2018	14	8	6
24 October 2018	13	4	9
21 November 2018	10	4	6
19 December 2018	15	12	3
16 January 2019	12	6	6
<b>Totals</b>	<b>158</b>	<b>87</b>	<b>71</b>

## Newry, Mourne & Down District Council – January 2019

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### 8. Appeals

#### Planning Appeal Commission Decisions issued during January 2019

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	20	3	1	2	1
Down	7	1	0	1	0
<b>TOTAL</b>	<b>27</b>	<b>4</b>	<b>1</b>	<b>3</b>	<b>1</b>

## Newry, Mourne &amp; Down District Council – January 2019

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Statutory targets monthly update - up to December 2018 (unvalidated management information)  
Newry, Mourne and Down

	Major applications (target of 30 weeks)				Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 30 weeks	Number received	Number decided/withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 15 weeks	Number opened	Number brought to conclusion <sup>3</sup>	"70%" conclusion time <sup>3</sup>	% of cases concluded within 39 weeks
April	0	2	110.4	0.0%	100	109	14.0	52.3%	49	6	170.2	66.7%
May	0	2	67.3	0.0%	115	118	16.9	43.2%	50	14	48.3	64.3%
June	1	1	20.2	100.0%	135	132	15.1	50.0%	49	25	49.2	60.0%
July	0	-	0.0	0.0%	108	81	15.2	49.4%	39	6	61.9	66.7%
August	0	-	0.0	0.0%	110	136	15.6	47.8%	40	5	34.6	80.0%
September	1	-	0.0	0.0%	118	82	14.9	50.0%	34	5	129.7	20.0%
October	2	-	0.0	0.0%	146	138	16.3	44.9%	50	29	49.8	69.0%
November	0	-	0.0	0.0%	142	123	16.4	44.7%	36	14	58.4	50.0%
December	0	-	0.0	0.0%	113	31	18.0	38.7%	18	32	59.8	50.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
<b>Year to date</b>	<b>4</b>	<b>5</b>	<b>48.6</b>	<b>20.0%</b>	<b>1,087</b>	<b>950</b>	<b>15.8</b>	<b>47.36%</b>	<b>364</b>	<b>136</b>	<b>54.6</b>	<b>58.8%</b>

Source: NI Planning Portal

**Notes:**

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

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

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



## Record of meetings between Planning Officers and Public Representatives 2018-2019

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DATE OF MEETING	PLANNING OFFICER'S NAME/S	PUBLIC REPRESENTATIVE'S NAME
23/04/2018	A McAlarney	Cllr W Walker Cllr Andrews
27/04/2018	A McAlarney	Cllr Burgess
30/04/2018	A McAlarney	Cllr Walker
30/04/2018	A McAlarney	Cllr Fitzpatrick
10/05/2018	A McAlarney	Colin McGrath MLA
31/05/2018	A McAlarney	Cllr Rice
04/06/2018	A McAlarney	Cllr McMurray
29/06/2018	G Kerr	Cllr B Quinn
10/07/2018	G Kerr / P Smyth	Cllr B Quinn
17/07/2018	A McAlarney	Colin McGrath
09/08/2018	G Kerr / P Smyth	Cllr B Quinn
14/08/2018	A McAlarney	Cllr walker
04/09/2018	G Kerr	Cllr Tinnelly
07/09/2018	A McAlarney	Colin McGrath
12/09/2018	A McAlarney	Cllr Walker Cllr Andrews
18/09/2018	A McAlarney	Cllr Walker Cllr Andrews
20/09/2018	A McAlarney	Cllr Rice
03/10/2018	A McAlarney	Cllr W Clarke
18/10/2018	A McAlarney	Cllr Enright
29/10/2018	A McAlarney	Cllr Walker Cllr Andrews
13/11/2018	A McAlarney	Cllr Burgess
04/12/2018	A McAlarney	Cllr Walker

## Current Appeals

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**AUTHORITY**      **Newry, Mourne and Down**

<b>ITEM NO</b>	<b>1</b>	<b>PAC Ref:</b>	<b>2017/A0168</b>
<b>Planning Ref:</b>	LA07/2017/0687/	<b>DEA</b>	<b>The Mournes</b>
<b>APPELLANT LOCATION</b>	Steven And Diane Campbell 30m North Of 94 Greencastle Road Kilkeel		
<b>PROPOSAL</b>	RT34 ADF Infill site for new dwelling and garage in existing cluster (amended plans)		

**APPEAL TYPE**                      DC- Refusal of Planning Permission

**Appeal Procedure**                **Written Reps with Site Visit**                **Date Appeal Lodged**

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**

<b>ITEM NO</b>	<b>2</b>	<b>PAC Ref:</b>	<b>2017/A0213</b>
<b>Planning Ref:</b>	LA07/2016/0952/	<b>DEA</b>	<b>Newry</b>
<b>APPELLANT LOCATION</b>	D & M Downey 113-117 Dublin Road Newry		
<b>PROPOSAL</b>	RT35 AOP Sub-division of part of existing bulky goods retail warehouse (No 115) to provide 3 No. ground floor class A1 retail units with new shopfronts (the 3 No. units to operate without compliance with the bulky goods condition on approval P/1993/0605); and western extension of site area		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	<b>18/01/2018</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

## Current Appeals

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<b>ITEM NO</b>	<b>3</b>	<b>PAC Ref:</b>	2018/A0027
<b>Planning Ref:</b>	LA07/2016/1407/	<b>DEA</b>	The Mournes
<b>APPELLANT LOCATION</b>	Richard Newell 75A Glassdrumman Road Annalong		
<b>PROPOSAL</b>	<del>On Down</del> Proposed extension of curtilage of existing dwelling house and retention of existing Domestic Boat House and Yard		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	30/05/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>4</b>	<b>PAC Ref:</b>	2018/A0046
<b>Planning Ref:</b>	LA07/2017/0969/	<b>DEA</b>	Crotlieve
<b>APPELLANT LOCATION</b>	Mr Peter Clerkin 160m South Of 106 Leitrim Road Hilltown		
<b>PROPOSAL</b>	Proposed retention and extension of farm shed (amended address)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	11/07/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>5</b>		
<b>Planning Ref:</b>	R/2014/0079/F	<b>PAC Ref:</b>	2018/A0054
<b>APPELLANT</b>	Mr Brendan Maginn	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Approx 285m South West Of No 63 Dundrine Road Castlewellan		
<b>PROPOSAL</b>	Retention of as constructed 225 kw wind turbine with a tower height of 39.5m (to supersede previous wind turbine approval ref R/2010/0555/F)		
	(Additional surveys/info received)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	30/07/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>6</b>		
<b>Planning Ref:</b>	LA07/2018/0747/	<b>PAC Ref:</b>	2018/A0079
<b>APPELLANT</b>	Joan Henderson	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	200m South East 21 Levallyreagh Road Rostrevor		
<b>PROPOSAL</b>	Newly Proposed replacement dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	05/09/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

212

<b>ITEM NO</b>	<b>7</b>		
<b>Planning Ref:</b>	LA07/2018/0220/	<b>PAC Ref:</b>	2018/A0085
<b>APPELLANT</b>	Mr & Mrs H Coulter	<b>DEA</b>	Rowallane
<b>LOCATION</b>	50m SE Of 7 Old Saintfield Road Creevycarnonan		
<b>PROPOSAL</b>	Crossbar Proposed 2 no infill dwellings, detached garages and site works		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	17/09/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>8</b>		
<b>Planning Ref:</b>	LA07/2017/0701/	<b>PAC Ref:</b>	2018/A0086
<b>APPELLANT</b>	J&J McKibbin	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Land 60m North East Of No. 181 Moyad Road Kilkeel		
<b>PROPOSAL</b>	RT34 4HI Erection of self-catering tourist accommodation, light industrial units and associated site works.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	18/09/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

213

<b>ITEM NO</b>	<b>9</b>		
<b>Planning Ref:</b>	LA07/2018/0865/	<b>PAC Ref:</b>	2018/A0100
<b>APPELLANT LOCATION</b>	Mr And Mrs C Parke 25 Oldtown Lane Annalong	<b>DEA</b>	The Mournes
<b>PROPOSAL</b>	RT34 4YF One and a half storey rear extension to include additional living accommodation and home office. Proposed garage to west side		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>	<b>Date Appeal Lodged</b>	05/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>10</b>		
<b>Planning Ref:</b>	LA07/2017/0290/	<b>PAC Ref:</b>	2018/A0117
<b>APPELLANT LOCATION</b>	Mr & Mrs McMurray 110 M South Of No 52 Carsonstown Road Saintfield	<b>DEA</b>	Rowallane
<b>PROPOSAL</b>	RT24 7FR Single Storey 200sqm house with Outbuilding - garage and stores		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>	<b>Date Appeal Lodged</b>	24/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>	28/02/2019		
<b>Date of Site Visit</b>			

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## Current Appeals

214

<b>ITEM NO</b>	<b>11</b>		
<b>Planning Ref:</b>	LA07/2017/0699/	<b>PAC Ref:</b>	2018/A0122
<b>APPELLANT</b>	Brian & Laura Fealy	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	130m West Of No. 21 Kilkeel Road Hilltown		
<b>PROPOSAL</b>	Proposed dwelling & detached garage on a farm.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>	<b>Date Appeal Lodged</b>	25/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>12</b>		
<b>Planning Ref:</b>	LA07/2018/0554/	<b>PAC Ref:</b>	2018/A0123
<b>APPELLANT</b>	Mr Craig Baxter	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	No. 5 Ringbane Road Ringbane		
<b>PROPOSAL</b>	Newrv Change of use from private swimming pool to commercial swimming pool, retention of extension to same and extension to site curtilage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	25/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

215

<b>ITEM NO</b>	<b>13</b>		
<b>Planning Ref:</b>	LA07/2017/0691/	<b>PAC Ref:</b>	2018/A0124
<b>APPELLANT</b>	Mr & Mrs G Cunningham	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Lands Adjacent To And North East Of 346 Newry Road Kilkeel		
<b>PROPOSAL</b>	RT34 4SF Proposed detached retirement dwelling and garage (additional plans)		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	26/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>14</b>		
<b>Planning Ref:</b>	P/2015/0200/F	<b>PAC Ref:</b>	2018/A0130
<b>APPELLANT</b>	Mr Naill Black	<b>DEA</b>	Newry
<b>LOCATION</b>	Approx 150m South East Of No 28 Ferryhill Road Killean		
<b>PROPOSAL</b>	Newry Erection of a farm dwelling and garage.		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>	<b>Date Appeal Lodged</b>	30/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

216

<b>ITEM NO</b>	<b>15</b>	<b>PAC Ref:</b>	2018/A0131
<b>Planning Ref:</b>	LA07/2018/0331/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	David Gordon		
<b>LOCATION</b>	34 Dougans Road Kilkeel		
<b>PROPOSAL</b>	RT34 4HN Retention of dwelling and integrated garage, in substitution of Planning Ref. P/2009/1284/F		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	30/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>16</b>	<b>PAC Ref:</b>	2018/A0132
<b>Planning Ref:</b>	LA07/2017/1316/	<b>DEA</b>	Newry
<b>APPELLANT</b>	O'Hagan Construction Ltd		
<b>LOCATION</b>	Site Adjacent And North Of 8 Heslips Court Adjacent And West Of 9 Heslips Court And Opposite And 25 M East Of 16 Chancellors Hall		
<b>PROPOSAL</b>	Retention of retaining wall and raised land and erection of dwelling (Amended Proposal)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	30/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

217

<b>ITEM NO</b>	<b>17</b>	<b>PAC Ref:</b>	2018/A0133
<b>Planning Ref:</b>	LA07/2018/0360/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Forest Park Developments		
<b>LOCATION</b>	Immediately North West Of 4 Sawmill Road Castlewellan BT31 9GJ		

**PROPOSAL**                      Infill dwelling

**APPEAL TYPE**                      DC- Refusal of Planning Permission

**Appeal Procedure**                      **Date Appeal Lodged**                      31/10/2018

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**

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<b>ITEM NO</b>	<b>18</b>	<b>PAC Ref:</b>	2018/A0134
<b>Planning Ref:</b>	LA07/2017/1151/	<b>DEA</b>	Slieve Gullion
<b>APPELLANT</b>	Clark McCourt		
<b>LOCATION</b>	Lands 70 Metres North-East Of 32 Cullentragh Road Jerretspass		

**PROPOSAL**                      Erection of farm building and associated site works to include vehicular access, access lane and hard-standing area

**APPEAL TYPE**                      DC- Refusal of Planning Permission

**Appeal Procedure**                      **Informal Hearing**                      **Date Appeal Lodged**                      31/10/2018

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**

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## Current Appeals

218

<b>ITEM NO</b>	<b>19</b>		
<b>Planning Ref:</b>	LA07/2018/1074/	<b>PAC Ref:</b>	2018/A0142
<b>APPELLANT</b>	EDB Construction Ltd	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands Opposite No 1 Ashgrove Avenue Newry		
<b>PROPOSAL</b>	Housing Development comprising of 2 No. 4 bedroom Houses and 26 No. 2 Bedroom Apartments (amended proposal)		
<b>APPEAL TYPE</b>	DC - Non Determination of a Planning Application		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	04/12/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>20</b>		
<b>Planning Ref:</b>	LA07/2018/0457/	<b>PAC Ref:</b>	2018/A0143
<b>APPELLANT</b>	D Downey	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands To West And South Of Existing Retail Units At Nos 113-117 Dublin Road Newry		
<b>PROPOSAL</b>	Retention of change of use of Agricultural land adjacent to establish retail units to facilitate safe parking of customer and staff vehicles and servicing of retail units, with associated landscaping works.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	15/11/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

219

<b>ITEM NO</b>	<b>21</b>		
<b>Planning Ref:</b>	LA07/2018/1261/	<b>PAC Ref:</b>	2018/A0151
<b>APPELLANT</b>	Ebony Hughes	<b>DEA</b>	Newry
<b>LOCATION</b>	Premises At Corner Of Upper Edward Street Railway Avenue Newry		
<b>PROPOSAL</b>	Retention of mechanics garage, office store and boundary fencing		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	26/11/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>22</b>		
<b>Planning Ref:</b>	LA07/2018/0903/	<b>PAC Ref:</b>	2018/A0168
<b>APPELLANT</b>	Mr Glyn Mitchell	<b>DEA</b>	The Mournes
<b>LOCATION</b>	19 The Square Kilkeel		
<b>PROPOSAL</b>	Change of use from a travel agency to professional services office and new external finishes		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	21/12/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

220

<b>ITEM NO</b>	<b>23</b>	<b>PAC Ref:</b>	2018/A0171
<b>Planning Ref:</b>	LA07/2018/0709/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Mr Michael Mariner		
<b>LOCATION</b>	111 Loughinisland Road Annacloy		
<b>PROPOSAL</b>	Downpatrick Demolition of portion of existing vehicle repair building and construction of new extension(Retrospective)		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	03/01/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>24</b>	<b>PAC Ref:</b>	2018/A0172
<b>Planning Ref:</b>	LA07/2018/0921/	<b>DEA</b>	The Mourne
<b>APPELLANT</b>	Leah Chambers		
<b>LOCATION</b>	14a Stewarts Road Annalong		
<b>PROPOSAL</b>	RT34 411F Replacement dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	07/01/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

221

<b>ITEM NO</b>	<b>25</b>	<b>PAC Ref:</b>	2018/A0178
<b>Planning Ref:</b>	LA07/2017/1624/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Thomas Stevenson		
<b>LOCATION</b>	Site 50m NW Of 18 Turloughs Hill Annalong		
<b>PROPOSAL</b>	BT34 4XD And 80m NW Of The Dwelling Which Is To Be Replaced Replacement Dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	10/01/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>26</b>	<b>PAC Ref:</b>	2018/A0191
<b>Planning Ref:</b>	LA07/2018/0862/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Mr And Mrs McIlwrath		
<b>LOCATION</b>	North And Adjacent To 41 Old Park Road Tievendarragh		
<b>PROPOSAL</b>	Drumaness Erection of a dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	22/01/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

<b>ITEM NO</b>	27	<b>PAC Ref:</b>	2018/E0054
<b>Planning Ref:</b>	LA07/2018/1558/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Glyn Mitchell		
<b>LOCATION</b>	19 The Square Kilkeel		
<b>PROPOSAL</b>	RT34 4AA Removing existing timber cladding and painting the ground floor façade of the building with a timber effect finish		
<b>APPEAL TYPE</b>	DC - Non Determination of a Planning Application		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	20/12/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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# 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>	2018/A0030
<b>Appeal by:</b>	Tranquillity Ireland
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Retention of change of use of domestic dwelling and garage to three short term holiday let accommodation with alterations
<b>Location:</b>	97 Fathom Line, Newry
<b>Planning Authority:</b>	Newry, Mourne & Down District Council
<b>Application Reference:</b>	LA07/2017/1192/F
<b>Procedure:</b>	Written Representations with Accompanied Site Visit on 27 September 2018.
<b>Decision by:</b>	Commissioner O'Donnell dated 4 January 2019.

## Decision

1. The appeal is dismissed.

## Reasoning

2. The main issue in this appeal is whether the proposal is acceptable in principle in the countryside.
3. Section 6 (4) of the Planning Act 2011 states that determination under this Act must be made in accordance with the plan, unless material considerations indicate otherwise. In this case, the relevant statutory plan is the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP). The BNMAP places the appeal site outside any settlement limit and within the countryside and Ring of Gullion Area of Outstanding Natural Beauty. The BNMAP contains no material policies pertaining to the appeal proposal. Accordingly, I now turn to consider regional planning policy.
4. Paragraph 1.5 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) indicates that its provisions must be taken into account in the preparation of Local Development Plans and that they 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 Planning Policy Statement 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. The SPPS has a subject policy entitled 'Development in the Countryside'. It allows for the conversion and re-use of existing buildings for residential and non-residential use. It indicates that provision should be made for the sympathetic conversion and re-use, with adaptation if necessary, of a locally important building (such as former school houses, churches and older traditional barns and outbuildings), as a single dwelling where this would secure its upkeep and retention. Provision is also made for the conversion of a locally important building to provide more than one dwelling where the building is of sufficient size; the conversion involves minimal intervention; and, the intensity of the use is considered appropriate to the locality. Additionally, the conversion and re-use of existing buildings for non-residential use is addressed in the SPPS. It states that provision should be made for the sympathetic conversion and re-use of a suitable locally important building of special character or interest (such as former school houses, churches and older traditional barns and outbuildings) for a variety of alternative uses where this would secure its upkeep and retention, and where the nature and scale of the proposed non-residential use would be appropriate to its countryside location. The reference to 'single dwelling' or 'more than one dwelling' clearly relates to those proposals for conversion to residential use. In contrast, conversion to a 'variety of alternative uses' implies that other uses, alternative to residential and which could include tourist uses, appear to be considered non-residential for the purpose of this policy.
6. Policy CTY1 of the retained Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS21) sets out a range of types of development which are considered acceptable in principle in the countryside. One of these is the reuse of an existing building in accordance with Policy CTY4. Policy CTY4 says that planning permission will be granted to proposals for the sympathetic conversion, with adaptation if necessary, of a suitable building for a variety of alternative uses, including use as a single dwelling, where this would secure its upkeep and retention. Paragraph 5.21 of the supporting text to the policy states that there is scope for the reuse and adaptation of existing buildings in the countryside for a variety of non residential uses, including appropriate economic, tourism and recreational uses. Accordingly, this policy clearly categories tourism as non-residential and I also note that Policy CTY1 of PPS21 similarly categories tourism development as a non-residential use.
7. Following on from the above, I consider that the appeal development cannot be regarded as a dwelling house or dwelling houses under Class C1 of the Planning (Use Classes) Order (NI) 2015 (UCO) as it is not used by a single person or by people living together as a family. Clause (b) of Class C1 precludes use as a dwelling house if used by "*more than 6 residents living together as a single household where care is provided for residents*" with "care" relating to personal care as defined in the Registered Homes (Northern Ireland) Order 1992. Given its scale, the appeal development can accommodate much more than six people and no care, as specified, is provided. Class C2 of the UCO is entitled 'Guest Houses' and it refers to "*use as a boarding or guest house or as a hostel where, in each case, no significant element of care is provided*". However, as self catering accommodation has, by its very nature, no level of care provided given it contains

catering facilities for visitors, I am not persuaded that the appeal development falls within Class C2, as argued.

8. Regardless of any perceived ambiguity, *Tesco Stores Ltd v Dundee City Council [2012] PTSR 983* directs that policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context. Thus and notwithstanding the arguments from the Appellant, it is evident from the wording used in the policy documents outlined above, that tourism is regarded by the policy writers as a non-residential use. Given this and my findings as outlined above in paragraph 7, I consider the appeal development to fall under a non-residential use which is covered by the SPPS as it relates to the conversion and re-use of existing buildings for non-residential use.
9. The wording of the SPPS as outlined above clearly offers a revision of Policy CTY4 in stating that provision should be made for the sympathetic conversion and re-use, with adaptation if necessary, of a locally important building. There is obviously conflict between the SPPS and the retained policy. Thus, in accordance with the transitional arrangements, the SPPS must be accorded greater weight in the determination of the appeal.
10. On site, the self catering accommodation comprises the Lodge (main house) and the Mews (garage). Both were built around 2006/7 and are of modern design. The Lodge has five bedrooms with dining room, living space and kitchen area. The Mews can operate as two self contained units as the first floor accommodation can remain independent from the ground floor accommodation. The outside amenity space and parking provision is shared by all guests on site. Neither the Lodge nor Mews have any particular architectural or historic interest. Hence they cannot be regarded as locally important buildings of special character or interest. For this reason, even if the appeal development could be severed and considered as 'one unit', which appears to be argued by the Appellant, it would still fail the SPPS test. The appeal development is contrary to the requirements of the SPPS and fails this policy. As the SPPS is silent on the remaining elements of Policy CTY4, the appeal development falls to be determined under these elements of the retained policy. Those criteria which were contested by the Council are discussed below.
11. Criterion (d) of Policy CTY4 requires that proposals do not unduly affect the amenities of nearby residents. The Council argue that as guests staying on the site could avail of services including a personal DJ and Karaoke nights, these activities could adversely affect the amenity of neighbouring residents.
12. The appeal development is set back from the Fathom Road by some distance and is well secluded given the screening effect of the vegetation around the site. This includes significant buffer planting along its boundary. The closest neighbouring property is located to the north east around 50m away. I consider that the height and width of this boundary vegetation is robust enough to help in mitigating against noise arising from the appeal development. The Council did not dispute that the self catering accommodation has been running for some three years and within this time frame there is no evidence of any complaints arising from neighbours around the level of noise and/or activity on the site. My attention was also drawn to the company's 'good housekeeping rules' which sets out terms and conditions that must be agreed to by guests during their stay. Visitors are not permitted on to the premises after 10.00pm and the company reserves the right to

remove those guests who, for whatever reason, act in a disorderly fashion as to disturb the peace of other guests. It goes on to say that "*no parties, loud disturbances and/or noise nuisance are tolerated on these premises*" and I note that contravention of such rules means that guests will be asked to leave without refund. In addition, the company specifically targets families and corporate groupings.

13. Whilst DJs and karaoke nights are available to guests, it is likely they would only occur occasionally depending on the clientele. Adherence to the house rules means that such events would also be controlled. In light of the above evidence and given that the Environmental Health section of the Council, who are the competent authority on matters such as noise and disturbance, had no objections, I am not persuaded that the objections in respect of impact on residential amenity are well founded.
14. Criterion (g) of Policy CTY4 requires that access to the road will not prejudice road safety or significantly inconvenience the flow of traffic. The Appellant submitted amended access arrangements at appeal stage which were accepted by the Council. They subsequently withdrew their objection under this criterion and the third reason for refusal which related to road safety. Whilst criteria (d) and (g) of Policy CTY4 are not offended, the requirements as set out in the SPPS are not satisfied.
15. The Appellant argued that the development complied with Policy TSM 5 (b) of PPS16. This policy states that planning permission will be granted for self catering units of tourist accommodation if any of three listed circumstances are met. Criterion (b) permits a cluster of 3 or more new units at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right. Notwithstanding the arguments put forward by the Appellant including those around the amenities in the area and those planned for the area, the appeal development seeks retrospective permission for the conversion and change of use of a dwelling and double garage. It does not involve "new units" which the policy specifically refers to. The policy does not refer to a new use, as argued. Even if the development could be considered as new units, it has not been satisfactorily demonstrated that any of the stated tourist amenities are significant (my emphasis) as per the requirements set out in paragraph 7.25. In any event, the policy goes on to say that "*self catering development is required to be subsidiary in scale and ancillary to the primary tourism use of the site*". The appeal site was in residential use before being acquired by the Appellant and there is no historic or current planning permission for any tourism use on the site. For these reasons the appeal development does not meet the requirements of Policy TSM 5.
16. It is clear that the above policy advocates the focussing of self catering development around existing nodes of tourist activity. This is in order to prevent random development throughout the countryside to ultimately safeguard the value of tourist assets. The appeal development is in the open countryside with residential properties nearby. In this context, it is a somewhat arbitrary development and if approved could pave the way for neighbouring dwellings to likewise convert. This would create a more sporadic form of tourist development in the countryside, against the spirit of the policy and against what is considered to be sustainable development.

17. The Appellant's arguments including the proximity of the site to various landscape designations, its border location and the economic boost the development and indeed tourism has delivered to the region do not outweigh the policy objections to the appeal development as outlined above. The relevant contents of the Regional Development Strategy 2035 (RDS) have been considered. However, they do not override operational planning policy. There is no 'need' test applicable in the appeal and the popularity or otherwise of the development is of limited relevance to my consideration. Appeal 2012/A0320 does not assist the Appellant's case as in that appeal the then planning authority were satisfied that the conversion, reuse and extension of the existing buildings would comply with Policy CTY4 of PPS21. In addition, for reasons outlined above, the policy context in this appeal is different given the publication of the SPPS. That appeal is therefore distinguishable to this, thus administrative fairness is not an issue. In any event, each appeal falls to be determined on its own merits within the evidential context provided.
18. While the appeal development complies with criteria (d) and (g) of Policy CTY 4, it does not meet the requirements of the SPPS or Policy TSM 5 of PPS16. Policy CTY1 of PPS21 goes on to say that other types of development will only be permitted where there are overriding reasons why it is essential and could not be located in a nearby settlement. No persuasive overriding reasons were advanced to demonstrate how the proposal is essential and why it could not be located in a nearby settlement. The proposal is therefore also at odds with Policy CTY1 of PPS21. Having considered all the information provided in support of the appeal, there is nothing within which would lead me to alter my conclusions.
19. The first and second reasons for refusal are sustained in so far as stated and they are determining in the appeal. Accordingly, the appeal must fail.

This decision is based on Drawing No 1 Location Plan @ 1:2500, Drawing No 2 Survey and Access Details @ 1:500 stamped received by PAC 15 August 2018, Drawing No 3 Ground Floor Plan @ 1:100, Drawing No 4 First Floor Plan @ 1:100, Drawing No 5 Elevations @ 1:200, Drawing No 6 Existing Garage Plans @ 1:100 and Drawing No 7 Proposed Garage Conversion Plans @ 1:100 stamped refused by the Council 2 February 2018.

**COMMISSIONER PAMELA O'DONNELL**

2018/A0030

**List of Appearances**

Planning Authority:-

Ms P Manley  
(Newry, Mourne & Down Council)  
Mr A Donaldson  
(Newry, Mourne & Down Council)

Appellant(s):-

Mr H Martin (Appellant)  
Ms T Cassidy (Agent)

**List of Documents**

Planning Authority:-

"A" Statement of Case and appendices

Appellant(s):-

"B" Statement of Case and appendices  
"B1" Rebuttal

Third Party

"C" Letter of Support from Cllr Liz Kimmins



# Appeal Decision

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<b>Appeal Reference:</b>	2018/A0066.
<b>Appeal by:</b>	Mr Brendan Gibney.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Dwelling and garage on a farm.
<b>Location:</b>	80m East of 89 Demesne Road, Edendariff, Ballynahinch.
<b>Planning Authority:</b>	Newry, Mourne & Down District Council.
<b>Application Reference:</b>	LA07/2017/1394/F.
<b>Procedure:</b>	Written representations and accompanied site visit on 5 December 2018.
<b>Decision by:</b>	Commissioner Mark Watson, dated 21 January 2019.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are:
  - the principle of development, including whether or not the proposed dwelling would be sited to cluster with existing buildings on the farm; and
  - the future residential amenity of any occupants of the proposed dwelling.
3. The Ards and Down Area Plan 2015 (ADAP) is the statutory local development plan for the proposal. In it, the site lies in the countryside and there are no policies or proposals within the ADAP that are material to this single dwelling application. In respect of the appeal development there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland '*Planning for Sustainable Development*' and those of PPS21. PPS21 remains the applicable policy context to consider the principle of development against.
4. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these cases is a dwelling on a farm in accordance with Policy CTY10. It follows that if the development complies with Policy CTY10 it will comply with Policy CTY1 of PPS21.
5. The site as outlined in red comprises an agricultural field situated off the eastern side of Demesne Road. The field slopes downwards in a south-easterly direction

towards a watercourse that runs along the southern boundary. A smaller area within the north-eastern corner of the field (hereafter referred to as the appeal site given the appeal development is for full planning permission) has been demarcated as the actual curtilage for the proposed dwelling. The appeal site is to be accessed from an existing laneway situated between Nos. 89 and 91 Edendariff Road, two roadside dwellings. The laneway affords access to a series of fields, as well as an agricultural shed and yard on the northern side of the laneway which is not part of the Appellant's own holding. The proposed dwelling is to be sited on a rocky outcrop. The site boundaries of this part of the field are provided by some mature hedge along the northern boundary and mature trees and hedge on the eastern boundary. The other boundaries of this particular area are undefined. The southern boundary of the host field is provided by a post and wire fence, whilst a mature line of trees and hedge define the western boundary between the field and the line of roadside dwellings. There are a large number of agricultural vehicles parked on the western part of the host field, referred to by the Appellant as an overspill yard. There is also a barrel-roofed shed on this part of the field, used for storage of hay and an old tractor. The Appellant's main group of buildings lies adjacent and south-west of the host field, comprising the dwelling at No. 83 Demesne Road, a large agricultural shed with several smaller attached sections and an adjacent yard used to store more vehicles and equipment.

6. Policy CTY10 of PPS21 states that planning permission will be granted for a dwelling house on a farm subject to several criteria. The Appellant has a longstanding farm business and provides agricultural contracting services to other farmers. Whilst the host field is in his ownership, the remainder of his holding is taken in conacre. The Council's objection related to criterion (c) of Policy CTY10, which requires that the new building is visually linked for 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.
7. The access to the proposed dwelling would utilise an existing laneway, thus this policy preference is met. There is a sizeable agricultural shed and yard in close proximity to the appeal development, but as this lies on a separate farm holding, it cannot assist the Appellant's case. The Appellant pointed to a block built, barrel-roofed shed situated along the western boundary of the host field adjacent to No. 87 Demesne Road. The shed in question constitutes a building on the farm for the purposes of the policy. However, by the Appellant's own measurements that building lies approximately 73.84m from the main group of buildings. The appeal dwelling and garage would, also by the Appellant's own measurements, lie approximately 45.15m north-east of the barrel-roofed shed, which constitutes the nearest building on the farm. Notwithstanding that the barrel-roofed shed is a single building rather than a group of buildings on the farm holding, the separation distance from the appeal dwelling to that shed is such that the proposed dwelling and garage cannot be considered to visually link or be sited to cluster with an established group of buildings on the farm.
8. The Appellant's representative quoted the 75m distance threshold contained in Part 7 of the Planning (General Permitted Development) Order (NI) 2015 (GPDO), referring to that distance allowing for linkages between buildings on farm holdings. The 75m distance threshold at Part 7 Class A1(e) of the GPDO serves as one of a series of tests to determine whether or not agricultural buildings and operations would constitute permitted development. It serves a different function to the

locational test contained in criterion (c) of Policy CTY10 of PPS21. Regardless of the appeal dwelling being situated less than 75m from the existing barrel-roofed shed, for the reasons given above it would not meet criterion (c) of Policy CTY10 of PPS21.

9. Policy CTY10 states that exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm and where there are either demonstrable health and safety reasons or verifiable plans to expand at the farm business at the existing building group.
10. The Council, during consideration of the application, had suggested that the southern-most part of the host field, adjacent to the Appellant's main building group and yard, was a potentially suitable site. This location was ruled out by the Appellant on two counts. The first was that the land in question was low-lying and prone to waterlogging. It was stated that at times it also suffered pollution problems from septic tank run-off from several dwellings outwith the farm holding crossing the land and entering the watercourse. This also caused odour issues. The Appellant submitted a Structural Report which concluded that due to the waterlogged and boggy nature of this area, piling and substantial infilling would be required to facilitate a dwelling. The Appellant considered that this would be a much more expensive and less environmentally acceptable option. The Appellant's choice of site was predicated on that part of the host field being rocky land, as well as that location not interfering with the current arrangement of his overspill yard for vehicles and equipment.
11. The Appellant's Structural Report and my own inspection of the site are persuasive that the land condition at the southern end of the host field is such that it would make building more expensive, but not that it could not be carried out. Whilst earlier supporting evidence from the Appellant stated that the centre and east of the host field also suffered from waterlogging, I am not persuaded that those areas were as badly affected as the south-eastern most, low lying portion. The infilling of land for new development is not a method to be encouraged but I am not persuaded that the additional cost of construction would in itself justify an alternative location. I note from the Rivers Agency response that the land does not lie in a recorded floodplain. In the event of development in the southern part of the site, a freeboard alongside the watercourse would be required. This along with careful design could avoid any unacceptable impacts on the new dwelling or its occupants, even in the event of pollution of the adjacent watercourse at times and any odours, matters which could be pursued with the relevant statutory agency. I am not persuaded that these matters constitute demonstrable health and safety reasons which in themselves justify the location of the appeal development.
12. The Appellant also stated that he intended to erect a new farm building for further storage on this southern-most area given its location next to the farm yard where many of his vehicles are stored. I noted steel beams stored adjacent to this area that certainly could be used for this purpose. The beams appeared to have weathered over time but I do not know how long they have been stored there. I was told that such a farm building could still be erected on this boggy part of the host field more readily than a dwelling given the means of construction – steel uprights with a floating concrete floor, or simply dressing the interior floor in stones for the same purpose. The Appellant's evidence stated that he hoped the shed would be



erected in the spring of 2019. I find it reasonable that a farm shed could be more readily erected on this land notwithstanding its boggy nature, as well as the logic in such a location given the proximity to the existing main farm yard. However, despite the stated intent to expand the farm business at the existing building group and the presence of steel beams, I am not persuaded that these constitute verifiable plans, regardless of whether or not such a building could be erected utilising agricultural permitted development rights.

13. Although the southern-most area of the host field would not be best suited for a new dwelling given the ground conditions and I note the Appellant's preferences to avoid disruption to his existing overspill yard, it does not follow that a new dwelling could not be accommodated elsewhere within the host field that would be policy compliant whilst maintaining the integrity of the field, even if it necessitated some minor re-organisation of the Appellant's vehicle and equipment storage. I am not persuaded that the exceptional test under Policy CTY10 of PPS21 is met. Given this critical deficiency and the lack of compliance with criterion (c), the appeal development does not comply with Policy CTY10 read as a whole. The Council's second reason for refusal is sustained.
14. The Council raised concerns as to the proximity of the appeal development to a farm shed and yard belonging to a separate holding situated approximately 25m north-west on the opposite side of the laneway the appeal dwelling will derive access from. The Council considered that any dwelling on the site could have the amenity of its occupants adversely affected by normal operations at those buildings arising from noise, odour or pests. No policy context was provided, however, the SPPS at paragraph 4.11 states that there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development. It cites the example of the planning system having a role to play in minimising potential adverse impacts, such as noise on sensitive receptors by means of influence on the location, layout and design of new development.
15. The proposed location of the appeal development is less than 75m from a large farm shed and yard on the opposite side of the laneway proposed to access the appeal development. I have contradictory evidence from the parties as to the active use of these agricultural facilities. The Appellant stated that the shed is only used for hay storage but the Council witness stated that he observed cattle occupying the shed in October 2017. Irrespective of whether the shed and yard in question constitutes an outlying farm group rather than the main farm group for that holding, the facilities were in good condition and appeared to be in use for storage at the time of my site visit. However, regardless of their position within that farm holding, I have no reason to doubt the Council's evidence that it has been used in late 2017 for cattle storage, or that it could be utilised so again at any point depending on the particular needs of that farm business.
16. The Appellant is a farmer himself and thus more than aware of the potential amenity impacts that can arise from normal farming activities. He stated that he accepted that there could be potential amenity impacts but was prepared to accept them if they arose. He also pointed to the nearby dwellings at Nos. 89 and 91 Demesne Road, which lay almost as close to the shed as the appeal dwelling would, stating that the occupants of those dwellings had never complained to the Council's Environmental Health Department. It is proposed that the appeal development is to

be used firstly for the Appellant's son, a farmer himself, and his family. In due course the dwelling would then serve as a retirement dwelling for the Appellant when his son took over full control of the farm business, with a swop of dwellings taking place between the Appellant and his son. The Appellant is aware of the potential implications for the siting of the appeal dwelling and the dwelling is clearly intended for his and his son's use. In the context I have been given it is unlikely that the dwelling would be sold off from the farm holding. Although not persuaded that the location of the proposed garage relative to the new dwelling would greatly assist with mitigating any potential amenity impacts that could arise, I agree that in this case the Appellant would be alive to any potential adverse amenity impacts on the new dwelling or its occupants from odour, noise or pests.

17. The Council also considered that approval of the appeal development could potentially frustrate future development of that third party farm. Notwithstanding that such potential future development would have to be considered at that time, I am not persuaded that there would necessarily be any permitted development rights available given the existence of two existing dwellings situated within 75m of the existing shed. It does not follow that a dwelling on a farm for a person involved in agriculture would necessarily stymie the future development and operation of an adjacent third party farm. I am not persuaded that permission should be withheld on this basis.
18. The Appellant referred to a previously approved application at Creevyargon Road, Ballynahinch (ref. R/2013/0115/O) where a new dwelling was allowed in proximity to third party owned farm buildings. An infill dwelling at Broomhill Road, Ballynahinch (ref. LA07/2016/1393/F) which was allowed in close proximity to a large farm shed was also referred to. I was not provided with full details of these applications and in any event each application must be assessed on its individual merits. These examples would not in themselves justify the appeal development, but notwithstanding this, for the reasons given above I nonetheless find that the Council's third reason for refusal is not sustained.
19. However, as I have determined that the appeal development fails to comply with Policy CTY10, it also fails to meet Policy CTY1 of PPS21 and the related provisions of the SPPS. There are no overriding reasons why the development is essential and could not be located in a settlement. The stated support from an elected representative would not persuade me otherwise. The Council's first and second reasons for refusal are sustained and are determining. The appeal must fail.

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

<b>DRAWING NUMBER</b>	<b>TITLE</b>	<b>SCALE</b>	<b>DATE</b>
LA07/17/1394/1	Site Location Map	1:1250	Jun 2017
LA07/17/1394/2	Visibility Splays	1:500	Jun 2017
LA07/17/1394/3	Proposed Floor Plans	1:100	Jun 2017
LA07/17/1394/4	Proposed Elevations	1:100	Jun 2017
LA07/17/1394/5	Existing Block Plan	1:500	Jun 2017
LA07/17/1394/6	Proposed Block Plan	1:500	Jun 2017

**COMMISSIONER MARK WATSON**



**List of Appearances**

Planning Authority:- Mr M Keane (N, M & D DC)

Appellant:- Mr G Tumelty (Tumelty Planning Services)  
Mr B Gibney (Appellant)

**List of Documents**

Planning Authority:- 'A' Statement of Case & Appendices (N, M & D DC)

Appellant:- 'B' Statement of Case & Appendix (TPS)  
'C' Rebuttal Statement (TPS)



# Appeal Decision

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<b>Appeal Reference:</b>	2018/A0080
<b>Appeal by:</b>	Mary Slane
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Dwelling and garage
<b>Location:</b>	Between No.34 and No.38 Seafin Road, Killeavy, Meigh
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2018/0464/O
<b>Procedure:</b>	Hearing on 11 December 2018
<b>Decision by:</b>	Commissioner Brigid McGlinchey dated 21 December 2018

## Decision

1. The appeal is dismissed.

## Reasons

2. The main issue in this appeal is whether the proposal is acceptable in principle in the countryside and its impact on the landscape and character of the surrounding area.
3. The site lies in the open countryside as defined in the Banbridge and Newry Area Plan 2015. The plan has no material provisions in respect of the appeal proposal. The provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) are a material consideration. This policy document sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. During this transitional period planning authorities will apply the SPPS and retained planning policy statements. The relevant retained policy document relevant in this case is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21). Policy CTY1 of this document sets out the types of development that are, in principle, acceptable in the countryside and will contribute to the aims of sustainable development. One of these is a small gap within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8.
4. Policy CTY8 is entitled 'Ribbon Development' and states that planning permission will be refused for a building which creates or adds to a ribbon of development. Paragraph 5.32 states that ribbon development is detrimental to the character, appearance and amenity of the countryside. Even though this type of development has been consistently opposed, the policy goes on to say that an exception will be permitted. This exception relates to the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage, provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. It goes on to note that for the purposes of the policy the definition of a substantial and continuously built up frontage includes a line of three or more buildings along a road frontage without accompanying

development to the rear. A building has frontage to the road if the plot in which it stands abuts or shares a boundary with the road.

5. The appellant referred to two residential properties either side of the appeal site (Nos. 34 and 38 Seafin Road) plus a mobile home and shed as constituting a substantial and built up frontage. The garden of No.34 extends to the road and consists of a dwelling angled on the site with a garage sited to its side and rear of the plot. Whilst the dwelling has a frontage to the road, the garage does not given its subordinate spatial arrangement within the plot. No.38 consists of a dwelling which has a frontage to the road as the plot on which it stands shares a boundary with the road. The mobile home does not have the benefit of planning permission or a Lawful Development Certificate to demonstrate that it is lawful. Consequently, that structure cannot be weighed into the consideration of the above policy requirement. The shed is sited to the north of No.38 and is set back from the road in a plot which is separated from the road by an intervening field. While the shed fronts onto a laneway which connects to Seafin Road, this access arrangement does not negate the functional and physical separation of the building from the road. I find that the baseline requirement of the policy for at least three buildings lined out along the frontage of the road is not met. Accordingly, there is no gap or infill opportunity at this location and the appeal proposal therefore does not represent an exception to Policy CTY8.
6. Paragraph 5.33 of the amplification of Policy CTY8 indicates that ribbon development 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. Paragraph 5.34 states states that many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality. I consider that the lands between Nos. 34 and 38 is such a gap in the existing development. The proposal would visually link the existing dwellings and shed when travelling in either direction along Seafin Road and would add to the existing ribbon of development to the detriment of rural character. The proposal therefore would not comply with Policy CTY8. The Council has sustained its second reason for refusal.
7. The proposal does not represent one of the specified types of development considered acceptable in principle in the countryside under Policy CTY1 of PPS21. Policy CTY1 states 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 nearby settlement. There was no evidence to demonstrate that the proposal is essential. The proposal is at odds with Policy CTY1 of PPS21 and consequently the first reason for refusal is sustained.
8. Policy CTY14 of PPS21 relates to rural character and states that a new building will be unacceptable where it creates or adds to a ribbon of development. The existing gap between the two dwellings provides relief and a visual break that helps maintain rural character. The infilling of this gap would add to the ribbon of development leading to a suburban style build up detrimental to the rural character of the area. The third reason for refusal is sustained.

This decision is based on the Drawing 01- 1:1250 scale Site location plan date stamped received 22 May 2018.

**COMMISSIONER BRIGID McGLINCHEY**

**Appearances**

Planning Authority:- G Murtagh

Appellant:- J Young

**List of Documents**

Planning Authority:- C1 Statement of case + Appendices

Appellant:- A1 Statement of case + Appendices



# Costs Decision

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<b>Appeal Reference:</b>	2018/E0027
<b>Appeal against:</b>	The refusal of an application for a Certificate of Lawfulness of Existing Use or Development
<b>Proposed Development:</b>	Agricultural building
<b>Location:</b>	110 metres west of 240 Dublin Road, Killeen, Co Down, BT35 8RL
<b>Claim by:</b>	Mr James and Kevin Donnelly
<b>Claim against:</b>	Newry, Mourne and Down District Council
<b>Decision by:</b>	Commissioner Rosemary Daly, dated 28 December 2018

## Decision

1. The claim for a full award of costs is allowed in part.

## Reasons

2. In accordance with the Commission's publication 'Costs Awards Guidance' costs will normally only be awarded where all four of the following conditions are met:
  - the claim relates to a relevant type of appeal;
  - the claim is timely;
  - the party against whom the award is sought has acted unreasonably; and
  - the unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense.
3. Matters relating to discussions between the parties in advance of the appeal are not part of this determination. I therefore make no comment on the conduct of either party in this regard. Furthermore matters relating to the behaviour of the parties in respect of a separate cost claim relating to an appeal 2014/E0014 on the same site does not form part of the consideration in this appeal.

## *Eligibility*

4. The application relating to the appeal was determined under the Planning Act (Northern Ireland) 2011. An appeal was made in accordance with Section 173 of the Act against the refusal to certify a Certificate of Lawfulness of Existing Use or Development (CLEUD). The Commission therefore has power to make an order as to the costs of parties in accordance with Section 205 of the Act.



### ***Timeliness***

5. The Commission's published Cost Awards Guidance states that a claim for costs will not be considered unless it is timely. It sets out various deadlines which, it says, will be strictly applied, unless the claimant can show compelling reasons for missing a deadline. It makes the general point that a costs claim should be made as soon as reasonably practicable after the behaviour that triggered the claim.
6. In this instance events at the hearing caused the Council to concede on two of their presented arguments relating to their reasoning not to certify the development was lawful. The Commission's guidance says that all claims must be made in writing unless they arise from behaviour that occurred or came to light during the hearing, in which case a claim **may be** (my emphasis) made orally at the end of the hearing. This statement is not exhaustive and does not preclude written claims after a hearing.
7. Notwithstanding the Council's views at the end of the hearing the appellant orally stated they would like to make the cost claim in respect of the behaviour of the Council at the appeal. In order to provide a full explanation of the reason for making a cost claim, at the hearing, the appellant requested could the claim be submitted in writing. On this occasion a short time period was permitted to allow the appellant to put their cost claim in writing. I do not consider the parties were prejudice by this action Furthermore I note that the Council did not raise any objection to this course of action at the hearing. The cost claim in written form was forwarded to the Commission within 2 days of the hearing and exchanged in the normal way for comments from the Council.
8. As it was indicated orally at the hearing due to the behaviour of the Council a cost claim was being made and it was submitted in writing to the Commission within 2 days of the hearing I consider the claim was made in a timely manner as indicated by the Commission's guidance. The dead line for making a claim was not missed.

### ***Unreasonable Behaviour***

9. An application for a Certificate of Lawfulness of Existing Use or Development was submitted to the Council on 16 March 2018 (LA07/2018/0467/LDE). On the 20 April 2018 the Council refused to certify that the existing use or development was lawful. The Council specified three reasons why they concluded that the development did was not permitted development in accordance with Class A of Part 7 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015. The three reasons related to the development consisting of 3 buildings; the development not being located on land in an agricultural unit; and the building does not appear to be designed for the purpose of agriculture. An appeal was submitted on 17 August 2018 and the hearing took place on 13 November 2018.
10. Based on the submitted evidence and discussion at the hearing the Council conceded two out of three of their arguments relating to reasoning for refusing to certify that the development was lawful. The Council retained their stance in respect of their third argument relating to 'the purpose of the building' being design for agriculture.

11. Robust evidence was presented in the appellant's written statement of case and 23 accompanying appendices. This included planning history together with a previous Certificate of Lawfulness granted at the appeal site, examples of other agricultural buildings, site photographs, appeal decisions, farm maps and other information to justify and substantiate how the development was consistent with Class A of Part 7 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015.
12. The submission of such material to substantiate the appellant's case in the appeal does not amount to unreasonable behaviour. The information in the statement of case clarified the extent of the farm holding on the 15 March 2018 which was the day before the application was made. Matters relating to the appellant's agricultural holding were before the Council, the information provided was not new information but was clarification of the matters before the Council at the time they made their decision.
13. The claimant opinions relating to the Council's interpretation and presentation of their both their written and oral evidence does not amount to unreasonable behaviour. The quality of evidence is something which is tested through the normal appeal process. Likewise the appeal process is a means to clarify errors in the presented written evidence. The matters of error were presented at the hearing and were further clarified by the Council. Whilst errors in the written evidence are not helpful the clarification of such errors is part of the hearing process. This does not give rise to unreasonable behaviour. Furthermore the presentations of evidence to further clarify or make a point which is in dispute does not amount to unreasonable behaviour. The quality and source of such evidence is a matter for the party that is making their case. The presentation of evidence by the Council sourced on the internet does not give rise to unreasonable behaviour at the hearing.
14. Some of the presented evidence was further discussed at the hearing and only during further questioning, probing and investigation did the Council conceded two of the three arguments relating to their reasoning to refuse to certify the lawfulness of the development. Reviewing the evidence presented by the appellant it was clear that the development did relate to development on agricultural land in an agricultural unit and did comprise one building, with three compartments. The Council's concession in respect of these two reasons for refusing to certify the lawfulness of the development amounts to abandoning or not pursuing part of their case.
15. Whilst the appellant's statement of case with information providing further clarification was not before the Council at the time of they made their decision, the evidence was clearly presented to the Council before the hearing took place. Upon further discussion at the hearing the Council failed to produce any credible evidence in support of what had earlier appeared to be an important element of their case. This amounts to unreasonable behaviour.
16. The third reason which the Council did not concede related to building being designed for the purpose of agriculture. The Council provided limited evidence in their statement of case to state why they considered the development was not used for the purpose of agriculture. At the hearing the Council produced some documentation which they considered to assist their position. Whilst the

information was not persuasive of the Council's position it was used as a means to demonstrate their view in respect of the purpose of the building. Disagreement is an expected feature of the appeals process and is not inherently unreasonable and the format or type of evidence presented by the Council is a matter for their discretion. I therefore do not consider it was unreasonable for the Council to maintain their position in respect of the design and purpose of the subject building.

17. It would have been more helpful to the process had the Council made the concession at the outset of the hearing having reviewed the appellant's statement of case. As noted at paragraph 10 of the Commission guidance cost awards will encourage all those involved in the appeals process to behave in a responsible, cost con-conscious manner and to follow good practice by carefully assessing at the outset where they have a reasonable prospect of success, reacting in a timely fashion to changing circumstances and presenting credible evidence to support their case.
18. In this instance I conclude that the unreasonable behaviour presented by the Council is confined to the abandoning or not pursuing part of their case at the hearing. The abandonment of this part of the case was due to the Council not being in a position to make any credible arguments in respect of the matters discussed and only then conceded these points at the hearing.

#### ***Unnecessary Expense***

19. The Claimant presented information as to the nature of the expenses incurred, namely:
  - The cost of the appeal fee.
  - Costs associated with the Company Director of Envirofarm Limited in preparation, consultation, review of statement of case, site visits and appearance at the informal hearing.
  - Costs associated with the Senior Planning Consultant of Envirofarm Limited in preparation, consultation, review of statement of case, site visits and appearance at the informal hearing;
  - Costs associated Architectural Technician in site visit and preparation of addition plans for the Statement of Case
  - Costs of associated with appointment of Counsel (QC) including legal opinion, consultations, assessment of planning authority statement of case, briefing and appearance at informal hearing
  - Costs of Solicitor in meetings with client and agent, instruction of Counsel (QC), consultation with Counsel (QC) and appearance at informal hearing.
20. It is not a matter for the Council to state what they consider to be excessive costs as presented by the claimant. However from the evidence provided I note the costs presented by the claimant amount to a full award of costs for having to proceed through the appeal process.
21. The evidence presented in the appellant's statement of case further clarified matters before the Council at the time of making their decision. The Council was entitled to make their decision based on the information before them at that time.

22. Whilst the Council failed to sustain its arguments in respect of the purpose of the building it is must be noted that costs will not be awarded to a party just because the appeal has been decided in favour of that party. The preparatory expense and time presenting the appellant's arguments relating to the purpose of the building are a justified expense.
23. The withdrawal of the two of the reasons to substantial the Council's reasons for refusing to certify the lawfulness were made on the basis of the evidence and arguments presented in the appellant's statement of case. These matters came to light following the submission of the appellant's evidence. Accordingly the preparation and submission of the appellant statement of case was not unnecessary or a wasted expense in this regard.
24. In this instance I have not been persuaded that Council's decision to refuse to certify the lawfulness of the development gave rise to an unnecessary appeal. The cost of making the appeal, including appeal fee, is not an unnecessary or wasted expense nor do I consider the appellant preparation for the appeal an unnecessary or wasted expense.
25. The unreasonable behaviour of the Council arose when in view of the evidence presented by the appellant's statement of case they continued at the hearing to argue their points. Only then in light of not being able to make any credible argument relating to this evidence the Council conceded to withdraw two out of the three of the reasons why they had refused to certify that the development is not lawful.
26. The unnecessary and wasted expense therefore only relates to the time at the hearing arguing these the two indefensible reasons for refusing to certify the lawfulness of the development, namely that the development was one building and that it related to development on agricultural land comprised in an agricultural unit.
27. I therefore conclude the preparation and submission of the appellant's evidence was a necessary expense. The only unnecessary or wasted expense was the time spent by the appellant's team at the hearing debating the evidence already before the Council, which was conceded at the hearing.
28. The hearing started at 11.00am and ended at around 1.45pm. The time spent arguing these elements of the case would have amounted to around 1 hour and 30 minutes of professional time of the appellant team at the hearing. Given the above reasoning the claim for a full award of costs is allowed in part to reflect this unnecessary and wasted expense of time spent at the hearing.

### Order

**It is hereby ordered** that Newry, Mourne and Down District Council shall pay to Mr James and Kevin Donnelly the costs of professional time at the appeal hearing presenting and clarifying their argument made in their statement of case at the appeal hearing. This amounts to 1 hour and 30 minutes of professional time for those present at the hearing.

On receipt of this order the claimant may submit details of those costs to Newry, Mourne and Down District Council with a view to reaching agreement on the amount. If the parties are unable to agree, the claimant may refer the matter to the Taxing Master of the High Court for a detailed assessment.

**COMMISSIONER ROSEMARY DALY**

**List of Documents**

Planning Authority:- 'R1' Costs Claim (Newry, Mourne & Down District Council)  
Appellants: 'C1' Mr James and Kevin Donnelly



# Appeal Decision

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<b>Appeal Reference:</b>	2018/E0027
<b>Appeal by:</b>	Mr James & Kevin Donnelly
<b>Appeal against:</b>	The refusal of an application for a Certificate of Lawfulness of Existing Use or Development
<b>Proposed Development:</b>	Agricultural building
<b>Location:</b>	Approximately 110 metres west of 240 Dublin Road, Killeen, Newry, Co Down, BT35 8RL
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2018/0467/LDE
<b>Procedure:</b>	Hearing on 13 November 2018
<b>Decision by:</b>	Commissioner Rosemary Daly dated 28 December 2018

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## Decision

1. The appeal is allowed and the attached Certificate of Lawfulness is granted.

## Claim for Costs

2. A claim for costs was made by Mr Donnelly against Newry, Mourne and Down District Council. This claim is the subject of a separate decision.

## Preliminary

3. At the outset of the hearing the appellant outlined a number of issues relating to the Council's statement of case. Some of these issues related to a difference between this appeal and a different application (LA07/2017/0665/LDE) and subsequent appeal (2018/E0014) against the refusal of that application. A typed copied of these issues was presented at the appeal (PAC2). These facts have been duly noted and have been taken into account in the determination of this appeal.

## Reasoning

4. The main issue in this appeal is whether or not the development of an agricultural building is permitted development in accordance with Part 7 Agricultural Buildings and Operations of the schedule of development permitted under Article 3 of The Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO).

5. A Lawful Development Certificate (LDC) is a statement specifying what was lawful at a particular date. In accordance with Section 169 (2) of the Planning Act (Northern Ireland) 2011 a use or operation is lawful for planning purposes if (a) no enforcement action can be taken against it; and (b) it does not constitute a contravention of any of the requirements of any enforcement notice then in force. There is no current enforcement notice in force. The onus is therefore on the appellant to establish that the existing agricultural building is lawful.
6. The application for a Certificate of Lawfulness of Existing Use or Development was submitted to the Council on the 16 March 2018 seeking to certify that the new agricultural building complied with the Class A, Part 7 Agricultural Buildings and Operations of the schedule to the GDPO. This stipulates that development is permitted where the carrying out on agricultural land comprised in an agricultural unit of (a) works for the erection, extension or alteration of a building; or (b) any excavation or engineering operation; reasonably necessary for the purpose of agriculture within that unit.
7. Following consideration of the information provided during the application process the Council refused to certify that the agricultural building was permitted development. On the notice of refusal of the application for the Certificate of Lawfulness the Council stated three reasons why they considered the development not to be permitted development. It was considered firstly that the development consisted of 3 buildings; secondly that the development was not located on agricultural land; and thirdly the buildings do not appear to be designed for the purpose of agriculture. The Council stated there was no dispute that the development met with the other requirements stated in Class A and Class A.1 of Part 7 of the schedule to the GDPO.
8. At the appeal hearing the Council conceded that the development was on a field within the appellant's agricultural unit and that the development was as a whole one building. The Council's first two reasons for its conclusions relating to why the agricultural building was considered not to be permitted development are accordingly not sustained.
9. The remaining issue to be determined is whether the building has been designed for the purpose of agriculture in accordance with Class A.1 of Part 7 of the schedule to the GPDO. The Council considered the use of the building as a cool store was not for the purpose of agriculture and therefore is contrary to Class A.1 (c) of Part 7 of the schedule to the GPDO as the building, structure or works are not designed for the purpose of agriculture on the land.
10. The existing farm enterprise is accessed from the Dublin Road by two separate existing access points. The subject building is accessed by an existing private agricultural concrete laneway which serves an existing dwelling house and the other agricultural buildings on the farm enterprise at the rear of 210 Dublin Road. The development does not make any alteration to the existing access onto the Dublin Road. The building is constructed west of the detached dwelling house at 210 Dublin Road and also other existing agricultural buildings in the ownership and control of the appellant.
11. At the time of my site visit I noted there to be one building subdivided into three parts. To the rear of the building I noted that the two smaller subordinate



compartments were physically constructed and attached to the main part of the building. These two small parts of the building provided space for the plant room; switch room and condenser area associated with the cool store. The main part of the building was full to the roof with the boxes of potatoes which I note to be in the cool storage part of the building.

12. The appellant provided evidence to stating that the building has been inspected by Rates Collection Agency and has been deemed to be "zero rated" as the building is used for agricultural purpose associated with the existing farm holding. It is therefore deemed to be exempt from rates. Notwithstanding that the rates collection agency is subject to separate regulations the exemption from rates because of its agricultural use is relevant. If the buildings were used for any other purpose the rates collection agency would accordingly have this recorded. No other evidence was presented by the Council to persuade otherwise.
13. Documentation was provided from Newry Mourne and Down District Council Building Control Department on 13 April 2017 stating that the unauthorised works had come to their attention and that the works have been undertaken without a statutory application having been made under the Building Regulations (Northern Ireland) 2012 (Amended 2014). A copy of the appellant response by letter and emails were also provided. A file note of a conversation with the Building Control officer dated 19 May 2017 and the appellant's agent was provided stating that a building control application would not be necessary in this instance, as long as the building remained in agricultural use and no packaging or retailing takes place from the building. It was advised if the use of the building were to change from agriculture then a formal application would be necessary. The appellant presented that this evidence demonstrates the use of the building for agricultural purposes. This evidence was not disputed by the Council at the hearing.
14. The appellant stated that the storage and refrigeration of agricultural products derived from agricultural activities which originate from a farming enterprise is compatible with the European Union and planning definition of agricultural activity. Agricultural activity is defined by the Article 4 of the European Council Regulations (EC) No. 1307/2013 as the (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes; (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries; and (iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation. The Planning Act (Northern Ireland) 2011 states "agriculture" includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing lands, meadow land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes.
15. Neither of the above definitions provided by the EC regulations or the Planning Act specifically describes the storage and refrigeration of agricultural products as an "agricultural activity". However to my mind the definition is not conclusive on buildings reasonably necessary for the storage of farm machinery and equipment or crops and seeds necessary for agricultural purposes or activities.

16. The matter to be considered in the context of Part 7 Class A of the schedule to the GPDO is the erection of subject building reasonably necessary for the purpose of agriculture within that unit.
17. The appellant stated that development relates to a significant agricultural enterprise which consists of both crop production, notably potatoes, and a large beef rearing unit relating to some 600 cattle. The building is the appellant's way of providing improved storage systems in order to maximise the amount, variety and quality of their stored crops and farm produce.
18. The appellant explained the purpose of the building is to provide cool storage capacity for their 'home save' ware seed potatoes which are used to seed their own potato lands on their farm. Ware potatoes are any potatoes that are destined for human consumption in potato form. 'Home save' ware potatoes are seed potatoes derived from the original crop, they are small in size and are retained by the grower for replanting the following year. The building is considered by the appellant to be essential to efficient operation of the existing farm enterprise and improved storage capacity on the farm that adds value to the farm produce. I was told that the farm enterprise, subject to weather conditions, produces crops of ware potatoes equating to almost 1,200 tonnes. Some 240 tonnes of the crop is retained as home seed for replanting the preceding year. These seed potatoes must be stored on the farm.
19. The main part of the building is designed with one door opening measuring some 2 metres wide by 2.6 metres in height. The door way size has been designed to limit openings into the building in order to regulate the temperature of the building to maintain an optimal cool temperature. The appellant stated that a forklift is used to move the boxes of potatoes out of the building. The Council stated they were not convinced that the building is designed in accordance with industry practice. They provided a copy of a details and dimensions of a building, sourced on 'YouTube' relating to 'potato and onion storage'. It was the Council's view that the appeal building did not match that as specified by the internet search which they acknowledged related to a building in Australia, located in a different climate. The appellant stated that they had gone to a local company 'Cool-Tec' whom they stated have a reputation of specifying the standards and requirements of the building necessary for cool storage. They had no reason to doubt their expertise or specifications for the building.
20. Whilst I accept that the building may not be designed to exactly match that shown by the Council, I have not been persuaded that this evidence of itself demonstrates that the appeal building does not equally meet the requirement specified by the appellant for the cool storage of the 'ware' potatoes. The appellant stated that a well sealed and insulated store will allow the crop to be kept at an optimal temperature where humidity is controlled in changeable weather conditions. The building has been designed with only one small door opening to control the ventilation of the building. The roof pitch is low level allowing for the even stacking of boxes of potatoes. Fans have been positioned at the top of the building to allow the flow of air through the potatoes. The design of the building is clearly to provide a form of environmental control to stabilise the temperate and humidity for the storage of the potatoes to be reseeded on the farm. I note the Council did not seek any professional advice to support their arguments in respect

of the design of the building. I have not been persuaded by that a internet search provides justification to conclude the building has not been designed for the purpose of agriculture.

21. Furthermore the appellant explained the value of the 'ware' potatoes will increase depending on market circumstances. The appellant stated that adequate storage capacity is essential to the efficient operation of the existing farm enterprise. The appellant stated if necessary for future use the building could be also be used for the storage of beef products but as things stand the building is used for the storage of ware seed potatoes. The appellant stated entirety of the development/building was plainly designed to provide cool storage for agricultural purposes. The Council's evidence does not persuade me to the contrary in respect of the purpose of the building for agricultural use.
22. On the balance of probabilities based on the information provided and from my site inspection I consider that the building is reasonably necessary for the purpose of storing crops for the farm enterprise. The building has been designed for the purposes of agriculture. I do not consider the development to be contrary to the Class A of Part 7 of the schedule to the GPDO nor do I consider it to fall within the development which is not permitted by Class A.1 (c) of Part 7 of the schedule to the GPDO. Should the agricultural use of the building change to any another use other than for the purpose of agriculture then that use would be subject to a separate determination. The agricultural building on the site is therefore lawful development in accordance with Part 7, Class A of the schedule to the GPDO.

**COMMISSIONER ROSEMARY DALY**

**List of Appearances**

Planning Authority:-	Mr G Murtagh, Newry, Mourne & Down District Council Mr A Donaldson, Newry, Mourne & Down District Council
Appellant:-	Mr W Orbinson, QC instructed by Steven Begley Solicitors Mr B McKenvitt, Envirofarm Mr S Hughes, Envirofarm Mr Donnelly, Appellant Mr S Begley, Solicitor

**List of Documents**

Planning Authority:-	"A"	Statement of Case and Appendices, Newry, Mourne & Down District
Appellant:-	"B"	Statement of Case and Appendices, Envirofarm

## PLANNING ACT (NORTHERN IRELAND) 2011: SECTION 169

**CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT**

The Planning Appeals Commission hereby certifies that on 16<sup>th</sup> March 2018 the building described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and shown hatched on the plan attached to this certificate was lawful within the meaning of section 169 of the Planning Act 2011, for the following reason(s):

Signed

*Rosemary Daly*

**COMMISSIONER ROSEMARY DALY**  
**28 December 2018**

**FIRST SCHEDULE**

*Agricultural Building as shown on Drawing 01 (existing building) dated received by Newry, Mourne and Down District Council 16 March 2018 and Drawing 02 (site location map and site layout) dated received by Newry, Mourne and Down District Council 16 March 2018.*

**SECOND SCHEDULE**

*Land approximately 110 metres west of 240 Dublin Road, Killeen, Newry, Co Down, BT35 8RL*

Notes:

- (1) This certificate is issued solely for the purpose of section 169 of the Planning Act 2011.
- (2) It certifies that the building described in the First Schedule taking place on the land described in the Second Schedule was lawful on the specified date and, thus, was not liable to enforcement action under Section 138 or 139 of the Planning Act (Northern Ireland) 2011 on that date.
- (3) This certificate applies only to the extent of the building described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/operations/matter which is materially different from that described or which relates to other land may render the owner and occupier liable to enforcement action.